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Abstract

The purpose of this study was to examine the extent to which participatory deliberative democracy is being practised in the constitution making process in Zimbabwe. The nature of public participation determines the character, quality and extent of consultations and democratic deliberation in policy formulation Constitution making has inescapably remained an 'unfinished business' in Zimbabwe as a consequence of the Lancaster House settlement of 1979. Yet, a national constitution is a biography of the nation, whose crafting must embody legitimacy and credibility. This research sought to examine the processes available for public participation for constitution making in Zimbabwe. The research focused on the constitution making process as a case study against the background of a partocratic policy making system that existed since 1980, and the advent of the Inclusive Government consummated on 13 February 2009 whose policy making architecture is premised on the GPA. The central question of this study was: "What processes are being used to secure deliberative democratic participation in the constitution design process in Zimbabwe? The research relied on documentary evidence, the researcher's experience and observations as well as targeted semi-structured interviews on public participation in the constitution making process in Zimbabwe for data collection, as a case study. The researcher relied on secondary data from published and unpublished literature and tracked newspaper publications to gather data related to the constitution making process. The researcher also visited and observed some of the Constitution Select Committee (COPAC) outreach meetings to gather information relating to the quality of deliberation at the meetings. The main findings were that the COPAC structure did not adequately provide a framework for delivering deliberative democracy as political parties retained decision making at stages of the process. The research concluded that political parties, the Executive and Parliament, dominated the process. Participation was cosmetic and "Executo-partocratic driven" rather than a "people-driven" process. The prevalence of citizen harassment and intimidation as well as the occurrence of violence during the consultative process hampered meaningful participation in deliberative processes by citizens. Similarly the inauspicious operating environment discouraged the free flow of information and debate, alienating citizen views and limiting deliberative participatory democracy. In the main, the policy making approach adopted was 'Executo-partocratic' and as such limited the citizens participation in equal, open and free deliberation resulting in a process that lacked legitimacy and credibility.

Dedication

I dedicate this study to my late father David Kundishora Shonhe, may his soul rest in peace. I also dedicate the study to my mother, Phyllis Shonhe, who taught me the essence of hard work, as well as my three daughters, Anna, Ruvimbo and Anopa.

Declaration on plagiarism

I, Toendepi Shonhe, Student number: 406013 am a student registered for MMPP in the year 2009 I hereby declare the following: I confirm that the work I will submit for all assessment for the above course is my own unaided work. I have followed the required conventions in referencing the thoughts and ideas of others. I am aware that the correct method for referencing material and a discussion on what plagiarism is are explained in the P&DM Style Guide and these issues have been discussed in class during Orientation.

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Date: 28 February 2011

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Acknowledgement

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Acronyms and Abbreviations

AIPPA	Access to Information and Protection of Privacy Act
COPAC	The Constitutional Select Committee
CSS	Critical Social Science
DAs	District Administrators
DemCof	Democratic Councils Forum
GPA	Global Political Agreement
IDAZIM	Institute for Democratic Alternative in Zimbabwe
IG	Inclusive Government
ISS	Interpretative Social Science
MDC	Movement for Democratic Change
MDC-T	Movement for Democratic Change
MPs	Members of Parliament
NCA	National Constitutional Assembly
NGOs	Non Government Organisations
PAs	Provincial Administrators
POSA	Public Order Security Act
PSS	Positivism Social Science
SADC	Southern Africa Development Community
UK	United Kingdom
UN	United Nations
UNDP	United Nations Development Program
USAID	United States Agency for International Development
Zanu PF	Zimbabwe African National Union Patriotic Front
ZCTU	Zimbabwe Congress of Trade Union
ZINASU	Zimbabwe National Student Union
ZZZICOMP	Zimbabwe Lawyers for Human Rights, Zimbabwe Election Support Network and Zimbabwe Peace Project Independent Constitutional Monitoring Project

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CHAPTER 1

BACKGROUND AND RATIONALE

1.1 Introduction and Rationale

This research seeks to establish the extent to which deliberative democracy and public participation is practised and as such seeks to establish how such practice would have assisted in the deepening of democracy in policy formulation in Zimbabwe. The results of the study are expected to inform policy makers in the Inclusive Government in Zimbabwe, political parties, the Civic Society and the Donor Community on options and processes for the democratisation of policy formulation in Zimbabwe. The results will also add to the body of knowledge available and inform of possible studies to be conducted in the area under investigation.

1.2 Context of the Research

Constitution making has inescapably remained an unfinished business in Zimbabwe as a consequence of the Lancaster House settlement of 1979. Whereas "Constitutions are the fundamental building blocks for a democracy" (Olivier, 2007; 1), copious attempts made to write a constitution for and by Zimbabweans led to a state of affairs where the constitution was handed over instead of being made by the people (Austin, 2010, 73). Processes of constitution making have been associated with "colonial and liberation wars, violence and militarisation" as driving forces shaping "approaches, conceptions, ideologies and attitudes" on constitutionalism (Austin, 2008; 73). The violent approaches tended to alienate the participation of vulnerable policy clients lacking social power and economic resources (Patten, 2001) leading to the perpetuation of processes of elite accommodation and avoiding open and fair processes of democratic public consultation. It appears that the ongoing constitution reform process led by the Inclusive Government has been marred by violence, excessive executive control and significant domineering by political parties, at the exclusion of ordinary citizens.

Whereas the pre-independence period of Rhodesia was characterised by exclusive white stakeholder policy making processes aimed at internal self-sufficiency, the constitution

making processes have historically been exclusively elite and at times parliamentary driven. The Lancaster house constitution was designed to ensure that white community sectional interests were protected, through the preservation of unequal white representation in the legislature, inherited citizenship and the protection of ownership of agricultural land, despite protests by the nationalists during the negotiation process leading to the 'iniquitous' settlement (Kagoro, 2004; 239). As a result, the nationalist who were waging the liberation war with the colonial government in Zimbabwe agreed to the settlement constitution, only to facilitate political power transfer, hoping that they would be able to initiate amendment once in positions of power.

According to some theorists, the white community had enjoyed this faulty sense of security and perpetuated a political system constituted under sectional democracy with the black majority completely excluded from policy formulation prior to the Lancaster House Settlement (M. Sithole, 1978; J. Moyo, 1992; Austin, 2010).

Historically, the pattern of constitutional reform had been highly exclusive to the government beginning with the 1965 reforms that were used to declare unilateral Rhodesian independence (Austin, 2010) and indeed remained so up to the 19th amendment ratified on 15 September 2008 following interparty negotiations. In general, the post independent Zimbabwe period was characterised by policy formulation pattern that was hugely party-structure driven, what Kambudzi (1998) described as a partocratic policy making system.

The Zimbabwe African National Unity Patriotic Front (Zanu PF), as the ruling political party believed that as a liberation party, and bearing in mind its 'unfinished business' on the constitutional reform, had the sole legitimacy to handle constitutional reform. The party remained mindful that it had signed the Lancaster House Conference only to enable 'transfer of power to the black nationalist' in spite of the perpetuation of the entrenchment of economic rights for white settlers and international capital (Mandaza, 1986). However, an attempt by government to force through a reform process carried out in 1999 attracted a 'NO' vote on 12 February 2000, as the broad citizenry cited inadequate public consultation. Constitution making remained a key deliverable for the Inclusive Government specified in terms of Article VI of the Global Political Agreement (GPA, 15 September 2008). However,

the process has itself been opposed by some Civil Society organisations for its lack of adequate public participation mechanisms, by citizens.

Against this background, this research has examined the processes available for public participation for constitution making in Zimbabwe. The research focused on the constitution making process as a case study against the background of a partocratic policy making system that existed since 1980, and the advent of the inclusive government consummated on 13 February 2009 whose policy making architecture is premised on the GPA. The research covers the period from the period 2009 to 2010.

1.3 Problem Statement

Public participation and democratic deliberation in policy cycles has been minimal in Zimbabwe (Mbaya, 2000). Prior to the independence of 1980, the Rhodesian government depended on sectional democracy of the white community, that excluded the black majority and other stakeholders from policy development in the country (M. Sithole, 1978; J. Moyo, 1992). Similarly, the new government of Zimbabwe that emerged after independence adopted a Marxist partocratic policy formulation approach that further alienated most stakeholders in the country (Kambudzi, 1998). Zanu PF structures trumped government processes on policy development, "especially so with the establishment at the party's 1984 congress of the politburo and five other standing committees of the central committees, mandated to supervise ministries and secure the authority of the party over the government" (Weitzer, 1990 in Becoming Zimbabwe, 2009;178; Chapungu, 2002).

Both, the Rhodesian government-led sectional and exclusionary policy formulation framework and the partocratic approach introduced by the Zanu PF government shunned participatory deliberative democracy. This resulted in the exclusion of citizens from qualitative engagement in national transformation and development processes. (Zwizwai, Kambudzi and Mauya, 2004; Chapungu, 2002). There has been a history of claims to undertake a people driven constitution processes, but these have not been realised. For instance, the Minister of Justice, Legal and Parliamentary Affairs, Edison Zvobgo retorted to approaches by Civic Society calls for an inclusive process saying; 'How can a few people sit

under a tree and claim to be a National Constitutional Assembly? They are neither constitutional nor an Assembly' (*Kagoro, 2004:243)*.

Austin (2010) concluded that constitutional reform processes in Zimbabwe were abused and were intended to facilitate regime change and rarely to capture the aspirations of citizens in historical and contemporary Zimbabwe. Investigations are yet to be carried out to establish the policy processes being carried out on the constitutional making processes being implemented by the Inclusive Government.

However, Civil Society and some policy analysts claim that policy making has been elite-driven circumventing the will of the people and falling short of being "people-driven and inclusive" (*Magaisa*, 02 September, 2005), and consequently fail to capture the views of the 'have-nots'. Worse still, in situations where consultation took place, as was the case during the constitutional reform process carried out in 1999, not all the views of the public were incorporated into the final draft constitution (Olivier, 2007). In the end, constitutional reform has remained an elite driven process as articulated in the GPA.

Within the context of the Inclusive Government and using the ongoing constitution reform process , this research has sought to establish the extent to which participatory democratic deliberative processes are being used in the constitutional reform process. As was highlighted by Olivier (2007; 1), constitutions are the fundamental building blocks for a democracy that capture the values and aspirations of citizens of any nation. The participation of citizens in the development of a national constitution is critical for its legitimacy. This research will apply the 'participation ladder' as articulated by Arnstein (1969), and the Guidelines and Procedures for deliberative democracy stipulated by Patten (2001) to establish the extent to which the views of the citizens have been captured in the constitution making process.

1.4 Purpose Statement

The purpose of this study was to examine the extent to which participatory deliberative democracy is being practised in the constitution making process in Zimbabwe. The nature of public participation determines the character, quality and extent of consultations and democratic deliberation in policy formulation (Patten, 2001)**.**

This study proffers an examination of participatory deliberative democracy in Zimbabwe. An analysis of the constitutional reform process carried out from 2009 to 2010, helped to examine whether the notion of argumentation as opposed to negotiation posited Estlund (1993a) has been applied to confer policy legitimacy.

1.5 Research Questions

The central question of this study is: What processes are being used to secure deliberative democratic participation in the constitution design process in Zimbabwe? As a way of answering this broad question, guiding questions are posed as follows:

1.5.1 How has the partocratic policy formulation model affected participatory deliberative democracy in the constitution design process in Zimbabwe?

1.5.2 What policy formulation processes were employed in the constitution making process?

1.5.3 How have the policy formulation processes affected genuine democratic participation in the constitution reform process in Zimbabwe?

1.5.4 What options are available for increasing participatory deliberative democracy in the policy making process in Zimbabwe?

CHAPTER 2

LITERATURE SURVEY

2.1 Introduction

This section introduces public participation and deliberative democracy through discussion of existing knowledge and a critique of previous studies in the field for illuminative and evaluative analysis of the current and on-going constitution making process. The section analyses and relates existing knowledge and theories to the case under study, before making an argument for research in public participation in Zimbabwe's constitution making process. The section defines the key concepts and theories of the study before giving a theoretical review of the key theories and concepts for deliberative democracy. Attempts are made to analyse these theories in relation to the Zimbabwean policy making processes and the constitutional review processes carried out to date, rather than to critique existing theories as the focus is on the applicability and utilisation of existing theories of deliberative and participatory democracy on policy making in Zimbabwe. In the few instances where a critique was offered, this is embedded in the analysis and description of the concept or theory.

2.2 Definations of Concepts, Theories and Approaches

Jon Elster (1998) describes democracy as any kind of effective and formalised control by citizens over leaders, their decisions or policies. Skjelten (2006) agrees with this definition and accentuates that some key values and principles of democracy are equality, political freedom and public participation. Similarly, Amartya Sen (1999:7) concurs and goes on to identify some of the virtues for democracy as "the intrinsic importance of political participation and freedom in human life; the instrumental importance of political incentives in keeping government responsible and accountable; and the constructive role of democracy in the formation of values and in the understanding of needs, rights and duties."

The two main types of participation in a democratic society are direct and representative involvement. It is argued that direct democracy is unachievable and archaic due to the nature of modern government where decision-making has become technical requiring specialist and professional expertise. Stivers (1990) argue that citizens are therefore regarded as either too

passionate and selfish or too passive and apathetic. In that case, direct participatory democracy is considered utopian, only intended to provoke emotions, serving as distractions to democratic theorisation for the global village (Schmitter, 1995). On the other hand, representative democracy is argued to make sense in the modern democratic state as it is believed that elected officials should be trusted to work with professional public administrators for the common good. This notion of democracy is exclusionary and is based on the Schumpeter's (1987: 283) view that the "electorate is incapable of action other than stampede." All the same, the two approaches agree that citizen participation promotes the deepening of self-governance in a modern state.

In India, participative democracy was first advocated for by Ghandi through the concepts of *swaraj* (self governance) and *swadesh* (community control over resources) (Ghandi 1968a, b). *'The Ghandian way'* was later followed up by Jayaprakash Narayan through *the J.P. movement* that focussed on the grassroots for political mobilisation. They articulated participatory democracy as a means of empowering people through struggles for the collective control of resources for the common good, through the exercise of individual rights. Policy institutions were therefore structured in a manner that allowed for public participatory democracy.

Public participation refers to citizen action such as protests and lobbying, citizen involvement such as public hearings, and public opinions, electoral participation through voting and campaigning and obligatory participation through payment of taxes (Callahan, 1987). Participation is considered a cornerstone of democracy and central to the redistribution of power to the have-nots through its promotion inclusivity in decision making (Arnstein, 1969). Decisions are made based on argumentation, and not through negotiation (Elster, 1995: 239; Gutmann and Thompson, 1996), promoting exchange of ideas and not imposition of positions, leading to rational consensus, based on the rightness of the decision. Although there is a contrary view that consultations are time consuming and costly (Callahan, 1987), the overwhelming consensus by theorists such as Estlund (1993), Elster (1995) and Gutmann and Thompson (1996), is that an inclusive participatory deliberative approach deepens self-governance by citizens, as much as it improves the quality of decisions made.

Many scholars agree that deliberative democracy stands out as a means of fostering qualitative policy making as the best ideas find space to be captured. For instance, King (2003) asserts that deliberation is a process of careful and informed reflection on facts and opinions, before making a judgment on the matter at hand. A slightly different definition was proffered by Diego Gambetta (1998) who projects it by means of the process, as a discussion whereby citizens speak and listen to each other sequentially before making a collective decision. The force of arguments argues that political decisions made through deliberative procedure are legitimate and more likely to be right (Cohen 1986a, 1989a; Estlund 1997; Nino 1996). Just like public participation, democratic deliberative procedure promotes ownership of public decision by the citizens.

2.3 Public Participation

The Nobel prize-winning scientist Linus Pauling best captured the essence of public participation when he remarked that: the best way to have good ideas is to have lots of them and then discard the bad ones retaining the good ones. Booysen (2006b) and Fung and Wright (2003) add that public participation is essential as a means of deepening democracy through giving voice to the masses. The democratic model aptly captures public participation, a view that was shared by James Bohman (1998) who views it as a family of views according to which public deliberation of free and equal citizens is at the core of legitimate and credible political decision making processes and self government by citizens. It can be concluded that the legitimacy of public decisions is derived from citizen participation and is crucial for easy implementation of policies by the state and its agencies.

In agreeing with the assertions made by these theorists, Steven Patten (2001) states that participation goes beyond liberal representative democracy, it is about gaining meaningful control of one's life and destine and the existence of substantive social rights, the entrenchment of social and economic equality based on equivalent communicative competence and in discursive practices. These practices are intended to inform the values dominant in civic and public affairs and should be enhanced by ensuring that the character and quality of public deliberation is capable of fostering state and non-state actors involvement and ownership of policy making processes (Patten, 2001). It can be concluded that democratic public participation, serves to equalise influence over agenda setting and

policy formation through the creation of space for effective intervention for the benefit of the marginal or disadvantaged societal interests.

In the Zimbabwean context, literature is elaborate on how exclusionary the policy process has been. To begin with, there is little evidence of public participatory deliberative democracy in the design of policies in Zimbabwe. For instance, Mbaya (2000) admits that there has been limited public participation in the land policy process since 1999, noting that this has compromised good governance and the exercise of rule of law. He noted that no consultation was carried out during the land policy formulation, resulting in slow policy implementation, in turn affected policy output and impact. It has been observed by Rodrigo Bonilla (2005) that policies in Zimbabwe are generally formulated, but are never implemented

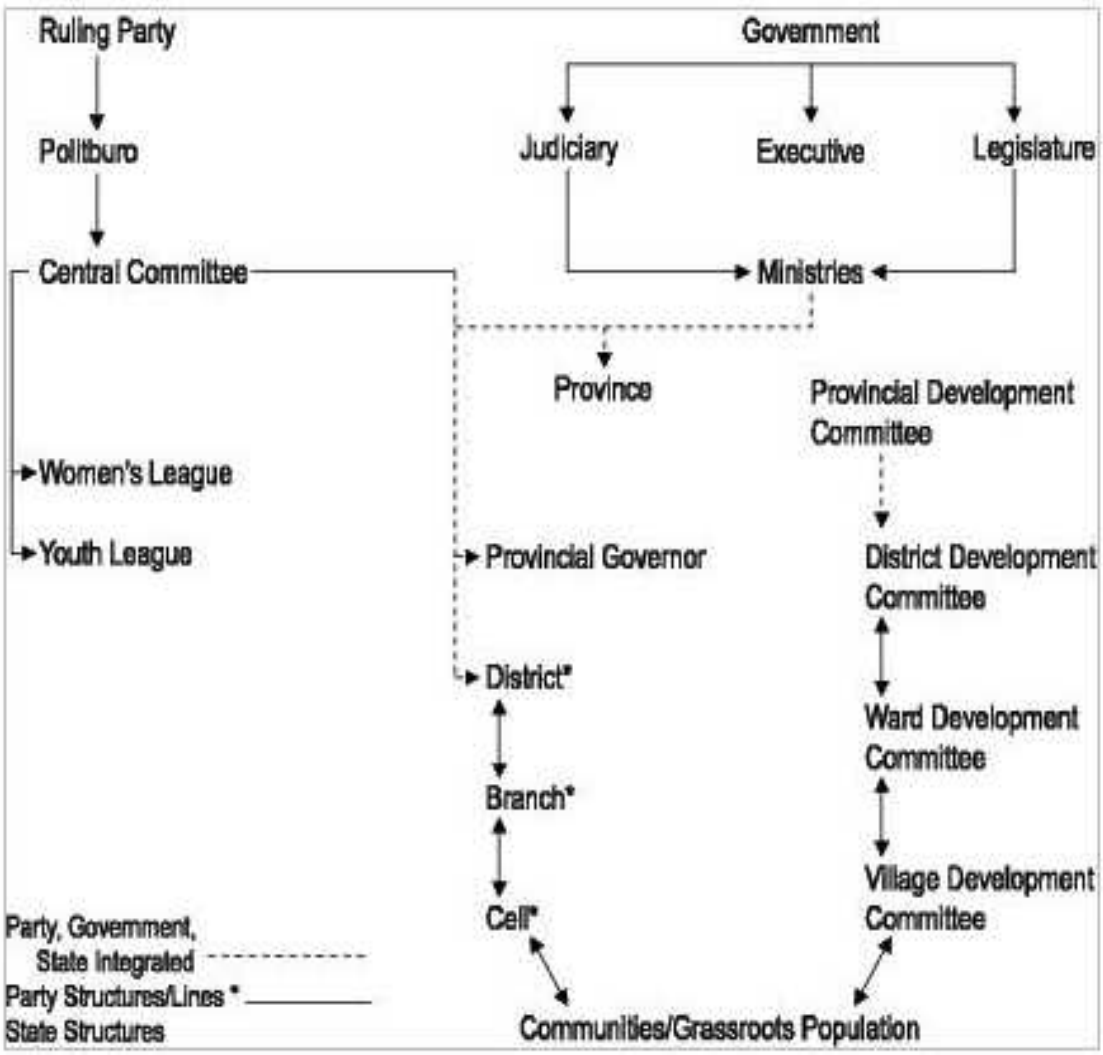
2.4 Partocratic Policy Making System

Zanu PF views its structures as having the sole legitimacy to policy making (Zwizwai, Kambudzi and Mauya, 2004). The intention is to correct the wrongs and secure lost positions from the compromises that emerged from the 1979 Lancaster House negotiation (Kagoro, 2000). Consequently, the wartime structural-organisational style created for the prosecution of the liberation war were perpetuated into the policy setting (Zwizwai, Kambudzi and Mauya, 2004). The party relied on a partocratic policy system which tended to subordinated government policy-making structures, while party-endorsed policies got imposed on the government implementation architecture and processes (ibid). The partocratic policy formulation system was described and illustrated by Kambudzi (Figure 1). The partocratic policy making process ensures that all government decisions are vetted and are endorsed by the party before being absorbed into government structure for implementation (ibid). Deliberative democracy therefore finds no space in the partocratic policy making formulation process.

The partocratic policy making structure articulated by Kambudzi eliminated ordinary citizens from deliberative processes and relied on party leadership avoiding citizens' views, thereby undermining democracy and the development of informed policies. Unless the process assumes that all citizens are members of the party and therefore should find space for contribution through its structures, then clearly the approach is designed to disenfranchise

citizens from policy making processes. The partocratic policy process favoured by Zanu PF is exclusionary and therefore undemocratic as little deliberation precedes policy adoption.

Figure 1 Patrocratic Policy System



Source: A. Kambudzi, November 1998.

The policy structure relied on party structures for consultative processes. As Figure 1 demonstrates, the different levels of the party link with government structures either for policy development or for policy implementation. The lowest level of the party structure, the cell and the Village Development Committee of the government structure are in touch with grassroots population. However the Ward Development Committees, the District Development Committee and the Provincial Development Committee consist of party members and these develop policy and take positions consistent with party ideology. The

partocratic policy formulation process eliminates the possibility of equal and free participation by citizens as much as the end product may lack legitimacy given that the political party and not the citizens drive the process.

2.5 Deliberative Democracy

Ever-since deliberative democracy was first coined by Joseph M Bessette (1980) in his book: "*Deliberative Democracy: The Majority Principle in Republican Government*", more theorists and practitioners have adopted this label as a means of deepening citizen involvement in issues that affect their well being beyond mere participation for the sake of it. Scholars have contributed to this debate focussing on different aspects of deliberative democracy. For instance, deliberative democracy was applied in radical democracy of the public sphere (Benhabib 1996; Dryzek 1990; Schlosberg 1995), in consultative forums with the state (Fishkin 1991; Smith and Wales 2000), and on representative assemblies (Uhr 1998 and Bessette 1994). Similarly, Rawls (1996, 231-40), sought to apply deliberative democracy on public reasoning by small groups and Goodin (2000) found the notion applicable on making others present including in one own internal deliberations. Deliberative democracy has therefore assumed a prominent position in decision making and policy making processes in the public sphere.

The qualitative involvement of citizens in policy making beyond rhetoric public participation has now taken root in modern democracies. Theorists such as Gutmann & Thompson (2004) suggested that deliberative democracy proposes a form of government in which free and equal citizens (and their representatives), justify decisions through acceptable and generally accessible reason-giving processes. However, the Zimbabwean situation presents a contrary position in that the Zanu PF) led government, in tandem with its socialist and commandist ideology, formulated national policies at party level and perceived the government structures only as implementation agencies, what Kambuzi referred to as the partocratic policy process, prior to the formation of the Inclusive Government (Zwizwai, Kambudzi and Mauya, 2004). Policies were generally developed behind closed doors, and party congresses were used as platforms for policy announcement (Chapungu, 2002), as a result, Zimbabwean citizens were rarely consulted, as such democratic deliberation was never applied in the early 1980. The situation began to change only in the 1990s (Muzondidya, 2008; 188), as a multi-influencer

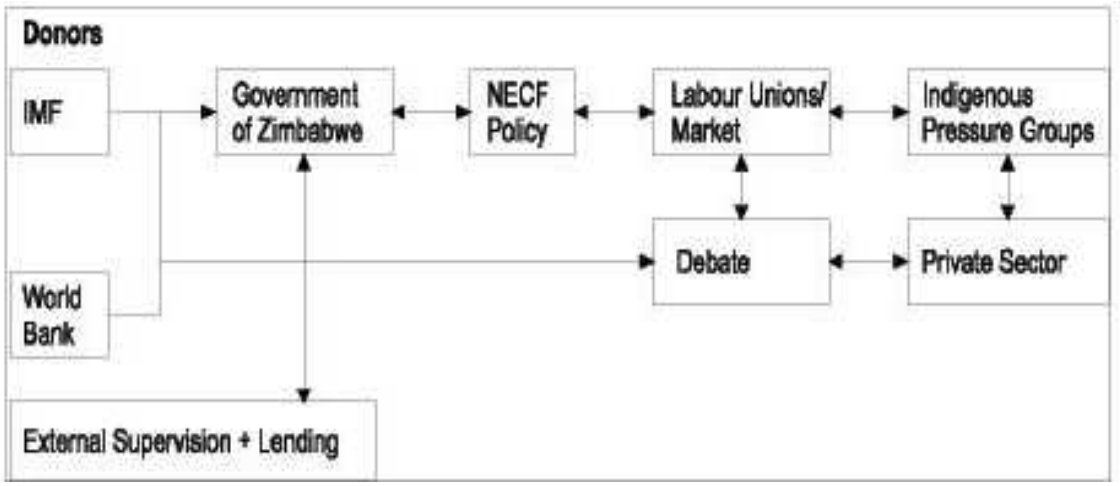
stakeholder consultative approach was adopted. This was due to massive economic decline and a drop in social services in the country.

2.5.1 The Multi – Influencer stakeholder Framework

The introduction of the Economic Structural Adjustment Program (ESAP) in 1991 resulted in the country experiencing a decline in average economic growth from 4 per cent to 0.9 per cent before recovering to 2.9 percent in 1998/9 (Muzondidya, 2009). This led to a rise in unemployment from 32.2 per cent to 43 per cent from 1990 to 1993 as well as a decline in social service delivery ultimately instigating political instability in Zimbabwe (ibid). These frightening developments forced the government to abandon its centralist partocratic policy making approach that took root when the nationalist government assumed power in 1980, in favour of a broad-based stakeholder consultative mechanism (the multi – influencer policy making system) (figure 2), as elaborated below by Kambudzi (1998).

While labour and other civic groups lacked trust in the government (Zwizwai, Kambudzi and Mauya, 2004), the Zimbabwean government ensured the existence of mechanism for consultation to enable varied stakeholders to contribute to public policy making in the country. At the same time, the government facilitated the formation of the National Economic Consultative Forum; comprised of business, labour and government itself as a platform for consultation and sharing of ideas in a bid to ameliorate the deteriorating economic situation (Raftopoulos, 2009; Zwizwai, Kambudzi and Mauya, 2004).

Figure 2 The Multi – Influencer stakeholder Framework



Source: A. Kambudzi, November 1998.

Policy failure, in particular during the period after the 1990s, and the advent of multilateral institutions, such as the IMF, the World Bank and other donor organisations saw the government beginning to involve both citizens and donor organisation in policy formulation (Chapungu, 2002). The government set up the National Consultative Forum as a consultative body on policy matters. The forum was composed of members of the trade union movement, the business community and government.

The forum was to be responsible for giving policy advice during policy formulation and feedback on policy implementation to the government. Members of the forum generally viewed this body as ineffective due to its lack of enforcement capacity on its policy recommendations. The forum in the end was viewed to be a talk-shop and a toothless dog, and as such members developed disinterest in the meetings making it moribund (Zwizwai, Kambudzi and Mauya, 2004).

The classic formulation of the deliberative ideal postulates that political decisions are made through a collective procedure of argumentation, where arguing consists of exchanging reasons, for or against certain proposals, oriented to the goal of rationality convincing others, instead of strategic participation oriented to impose on other personal political preferences or desires (Cohen, 1989a and 1989b; Gutmann and Thompson, 1996; Fishkin and Lasslett, 2003, 2); leading to rational consensus (Marti, 2004). This formulation is based on the notion that outcomes are legitimate to the extent they receive reflective assent through participation in authentic deliberation by all those subject to the decision in question (Dryzek, 2001:651) even though the practicalities of involving all citizens may be implausible.

Notwithstanding this contrary position, available knowledge put forward by these authors accentuate that the involvement of citizens in policy making in deliberative consultation is important for securing quality decisions.

2.6 Deliberative Conception of Legitimacy

The acceptability of any policy position is dependent on the process by which it has been formulated. In simple terms, legitimacy is defined as “the moralization of authority” (Crook 1987, 553), the moral grounds for obedience to power, as opposed to grounds of self-interest or coercion (Pogge 1978, 101-2). Due to its reliance on moral authority, “legitimacy makes

political processes more efficient by reducing the costs of enforcing compliance" (Parkinson, 2001), as citizens rarely resort to coercive means such as protest and demonstrations for their voice (that of the population at large) to be taken on board.

From a liberal perspective, moral legitimacy is derived from the extent to which democratic values of freedom, equality, access to resources and justice are distributed and enjoyed by ordinary citizens (Parkinson, 2001). The correctness of "knowers" (philosophers, technical experts or bureaucrats) is subordinate to "the people affected" (ibid). Legitimacy's claims of common interest is based on 'two benchmarks: the degree to which policy outcomes match the substantive goals of the society in question; and the degree to which they achieve normatively justifiable or desirable ends' (Beetham, 1991). Policy making patterns and processes and the extent of citizen involvement confer the legitimacy of the policies so formulated.

While deliberative democracy seeks to secure legitimacy, only popular consensus confirmed through public participation in democratic deliberative processes allowing public ownership of policies by citizens confers it (Parkinson, 2001). However, popular consensus imparts a scale problem (Parkinson, 2001). The problem emanates from the quest to involve all citizens while at the same time seeking to engage citizens in genuine deliberations. Theorists propose that the problem is resolved through the concept of representation as articulated under the authorisation model, which allows representatives to apply themselves independently to issues in a deliberative setting and therefore enable transformation through the force of better argument (ibid). Just like any other policy formulation process, the constitution making process direct and representative deliberative platforms are important for the entrenchment of deliberative democracy through citizen participation.

2.7 The Epistemic Conception of Deliberative Democracy

The policy formulation procedure should be independent so that it can provide the necessary credibility and bequeath legitimacy. The epistemic notion of deliberative democracy captures this opinion. It has been suggested that deliberative democracy is epistemic in that its procedure is reliable, correct and legitimate (Gutmann & Thompson, 2004 and Marti, 2004). The procedure emphasises knowing the right decision through a process that is at least

partially independent from individual preferences, interests, beliefs and goals, as much as it is free from the procedure itself (Estlund, 1997, 180-181). An independent procedure is capable of eliminating the dominance of preferences and bias in policy making processes. Policy making in Zimbabwe has not attained sufficient independence as it is driven by the executive to the exclusion of citizens (Magaisa, 2005). This has compromised the legitimacy of the policies adopted by the government.

Other theorists who emphasise the importance of decision making procedure, also known as the intrinsic justification, that attribute value to autonomy, equal consideration and respect, or political equality are Cohen (1989), Elster (1998), Bohman (1996), Gutmann and Thompson (1996 & 2004). King (2003) agrees and adds that this can easily be achieved by ensuring that decision-making is not exposed to the tyranny of the passionate majorities, themselves swayed by the clever minorities on policy making processes. Some theorists however agree that both the procedure and the substance of the decision matter are vital in shaping the character of legitimacy (Cohen 1989, Bohman, 1998, also see Marti, 2004). Deliberation therefore promotes the improvement of preferences and opinions of the majority of citizens by eliminating unreflective and uninformed manipulation by the skilled for their own narrow interests.

Many other theorists have written on the epistemic conception of deliberative democracy and submitted the following summarised compelling reasons:

- That deliberation increases the exchange and pooling of information together with information of those likely to be affected by the decision and therefore helps in improving the availability of relevant information (Dryzek, 1990).

- That it promotes the free expression of preferences of participants (Fearon, 1998, 45-49)

- That it allows for the detection of factual and logical errors influencing preferences and desires (Fearon, 1998, 49-52).

- That it helps eradicate irrational preferences and controls emotional factors (Nino, 1996).

- That it eliminates manipulation of ideas and information for personal agendas as well as strategic use of arguments (Elster, 1998).

Evidence from literature therefore points to the fact that the epistemic value of deliberation increases the possibility of initiating and implementing good public policies for the common good. However, in Zimbabwe, the collapse of the multi-influencer policy making framework in the 1990s (Zwizwai, Kambudzi and Mauya, 2004) as government resorted to a more centralist governing approach resulted in perpetual exclusion of the citizens.

Evidence from literature demonstrates that the prevailing policy making approach does not exhibit the prevalence of deliberative features that facilitate an increase in information exchange, free expression of preferences by participants, controlling of emotions and the elimination of manipulation of ideas. There is ample evidence of lack of epistemic deliberative democracy in policy making even within the Inclusive Government in Zimbabwe. For instance, the Indigenisation and Economic Empowerment policy announced by the Minister of Youth Development and Economic Empowerment was roundly condemned for lack of wide consultation even within Government structures as line ministries were not consulted (2010, June 23, The Herald). As a result, Civic Society organisations, industry and commerce voiced concern over the new law and advocated for the reversal of the law and advocated for a pluralistic policy formulation approach (Magaisa, 2009 September 02, Kubatana.net).

The notion that public policies and indeed national constitutions secure legitimacy from formulation processes that embrace the epistemic conception of deliberation, free from individual preferences, manipulations, emotional and irrational feelings is solid. The procedure of policy formulation is as important as the content of the final constitution.

2.8 Democratic Deliberation, Transformation and Fairness

Deliberative democracy emphasises the potential for transformation by the participants. This view was articulated by Loren King (2003) who postulated that democratic participation should be understood as a complex interactive process of discussion, argument, reflection, and careful judgment that is aimed at reaching widespread consensus on a suitable resolution to policy matters. He added that democratic deliberation is transformative in that it helps us

understand the common good and to reconcile public interests with particular personal preferences, interests and expectations of the participants by continuously challenging the issues and positions.

The transformative attribute of the deliberative democracy brings to the fore the second problem of motivation. As Rawls (1996) noted, legitimacy of decisions remains problematic due to the challenges related to motivation due to the requirement that participants ought to keep an open mind and must be willing to transform preferences. For participants, "pre-formed preferences, interests, and goals are essentially what motivate them to enter political arenas in the first place" (Rawls, 1996, 82). To the extent that participants are aware of the need to transform their pre-formed positions, they become reluctant to participate in deliberative democracy due to their reluctance to change such preferences as these are predicated on personal interest (Elster, 1998) and political considerations. However, such reluctance does not take away the imperative for transformation as that is the foundation for better and informed decision and policies.

In order for deliberative processes to be legitimate, they need to be fair and reasoned through debate. Deliberative democracy requires that authority be justified in terms of reasons acceptable to those to be ruled and affected by the decisions so taken (King, 2003). As was argued by Cohen (1996) and Guttmann and Thompson (1996), the procedural account goes beyond the mere conception of citizenship, fairness and the institutional arrangements in place and must include the need for citizens to agree on the democratic procedure itself. Legitimacy is derived from fairness and consensus emanating from utilisation of agreed procedures. Those that are to be affected must therefore agree upon policy formulation procedures. This view negates the view taken by Zanu PF in Zimbabwe. The use of partocratic policy process that rely on the party structures (Kambudzi, 1998) is far from being fair as it excludes ordinary citizens who do not belong to any political party and those citizens with different political orientations.

2.9 Democratic Deliberation Setting

Literature is elaborate on the setting ideal for proper democratic deliberation. Joshua Cohen (1989) outlined five features critical for a proper setting for deliberative democracy, in the

book "*The Good Polity*". He stated that firstly, deliberative democracy must necessarily be based on ongoing independent and continued association; secondly, that the formation and development of institutions should be informed by deliberation while the institutions created must guarantee deliberation by citizens in perpetuity. Thirdly, Cohen states that there must be commitment to the respect of pluralism of values and aims within the polity.

The forth condition for deliberation that Cohen highlights is that citizens must regard deliberative procedure as a source of legitimacy and fifth, that all members should be seen as having deliberative capacity and therefore participants owe one another in a deliberative process.

Loren A King (2003) identified three expressions necessary for enabling the deliberative procedure, namely: membership rules, political equality, and binding collective decisions. He agrees with Cohen that political equality should entail that members are presumed to be more or less equal with respect to their reasoning capabilities and in making decisions on public affairs for the common good and therefore each member must be given space for contribution to judgements (King 2003, Cohen, 1989). These peculiarities promote equal citizen involvement in public policy making processes.

John Parkinson (2001) in his conference paper on "*Legitimacy and Deliberative Democracy*", agreed with Cohen (1989) and noted positions taken by other theorists such Habermas (1975, 108) that genuine deliberation is defined by conditions where "no force except that of the better argument is exercised." He added that genuine deliberation has to meet a set of procedural conditions known to minimally include communicative competence, reciprocity, openness, fairness and inclusiveness (Cohen 1989; Gutmann and Thompson 1996), and a willingness to listen to reasons and transform in response to better argument and in pursuit of the new preferences (Dryzek, 2000a, 2). The reliance on better argument in policy making in an inclusive process enables the formulation of better and legitimate policies. This has not been the case in Zimbabwe. Reliance on stakeholders, referenda and opinion polls that were frequent prior to independence ceased prominence in policy development in independent Zimbabwe (Kambudzi, 1998), as these were quickly replaced by violence and force (Austin, 2010, p 76).

There has been little or no consultation in policy processes. Going by evidence from literature, Zimbabwe has not created the necessary setting for deliberative democracy in policy formulation.

2.10 Institutional framework for Deliberative democracy

A narrow definition of institutions in this context is that they are state structures or organizations of the state, society and the international system. They operate on the basis of rules and procedures, principles, norms and ideas, shaping the actors' behaviour and ultimately their attitudes. The prevailing institutional framework promotes or deters deliberation and participatory policy making processes (Fung and Wright, 2003). Institutions act as an iconography of order (Orren and Skowronek, 1994), and determine the polity's essential character shaping the future.

It was Spiller and Tommasi (2003) who argued "that the nature and characteristics of the observed policies are conditioned by the rules of the political games under which they are made". This view is supported by Jean Claude Thoenig (2002) in '*The Handbook of Public Administration*, where he postulates that institutions in place shape the design and content of policy decisions. Institutions can provide an opportunity for the giving of 'transformative voice' or deliberative arguments that affects policy outcomes. Similarly institutional rules and procedures that outlay and stipulate power outplay, ultimately influence decision making approaches and patterns as well as policy outcomes.

The notion that participatory institutional arrangements for policy making are important for the deepening of democracy is elaborate (Alvarez, 1993, p. 193). Yet, as was spelt out by Paul Light, in his book "*Thickening Government*" (1995), even the most well intentioned effort to empower citizens through the establishment of new institutional representative structures can achieve negative results due to decay over time and as such end up eating into public participation. He was supported by other scholars who thought that it is the nature of involvement and the use of networks in mobilizing the grassroots in deliberative processes that define the depth and intensity of participation by citizens for policy making. March and Olsen (1998) posited, in agreeing with the concept of public policy participation that, in the modern state, consultation is mainly done through policy communities that involve experts,

inside government, in universities or other institutions, who research and think about policy. The structures established for the constitution making process in Zimbabwe, will influence consultation and the possibility of genuine capturing of people's views only to the extent that networks and civic society engagement will be curtailed or is elaborate.

2.11 Deliberative Democracy and Civil Society

Deliberative democracy promotes the creation of a favourable environment for civic society participation. In his paper presented at the *Jubilee conference of the Australasian Political Studies Australian National University, Canberra*, Carolyn Hendriks defines Civil Society broadly as "distinct from the state and the economy" (Hendriks, 2002). More poignantly, Civil Society emerge in response to the failure of the state and the economy and have varying levels of proximity to political processes, as some are politically organised (e.g. interest groups) than others (e.g. social movements) (ibid). Despite the differing levels of proximity, civic society forms the critical representative body crucial for capturing citizens' views in policy making.

Some civil society organisations are structured in a manner that promotes citizen involvement while others are exclusionary in nature. They can be depicted in two strands: micro deliberative democracy and macro deliberative democracy (Dryzek 1990; 2000; Habermas 1996). Micro processes for deliberative democracy are exclusionary due to emphasis on formality and structured deliberative forum (Elster, 1986); Gutmann and Thomson (1996) whereas macro deliberative democracy are processes that are more concerned with the messy, unstructured deliberation which takes place in the public sphere (Dryzek 1990; 2000; Habermas, 1996). Deliberative participatory processes would be more feasible in macro deliberative democracies.

Civil society has generally been excluded from policy and constitution making processes in Zimbabwe even though they are structured to be able to engage in the "messy unstructured" deliberation. Tawanda Mutasa (2007) acknowledged the imperative of ensuring that constitutions be based on the will of the people, and that capturing them as the word of the people is critical to guaranteeing peace and stability. He observes that the tinkering of the Zimbabwean constitution had created a negative effect on its legitimacy, as the process had

been done at the exclusion of citizens. Efforts to establish an all-inclusive consultative process were met with resistance. Civic society pressure resulted in Zanu PF reluctantly agreeing to write a new people driven constitution as was announced at its 1997 conference in Mutare.

A civic society driven process was rejected by the government with the Minister of Justice, Legal and Parliamentary Affairs, Edison Zvobgo retorting; 'How can a few people sit under a tree and claim to be a National Constitutional Assembly? They are neither constitutional nor an Assembly' (Kagoro, 2004). Despite the Minister's reservations, pressure from the National Constitutional Assembly, itself constituted of labour movements, youth and women's groups, churches, business groups, human rights organisations, and political parties, that the government was forced to consider a broader participation (ibid). Minister Zvobgo's rebuttal was a rejection of genuine participatory processes that are centred on deliberative democracy, in favour of an executive-controlled process whose outcome was at the whims of the President of the day.

Deliberative processes are intended to include activities and forms of participation that involve more citizens in policy making. It propagates for the inclusion of processes such as greeting, rhetoric and storytelling as well as more strategic forms of action such as protest and direct action (Young, 1996), taking place in the informal spaces of society, where communication is unconstrained, spontaneous and anarchic (Habermas, 1996). Macro deliberative democracy encompasses small face-to-face discussions through action by social movements and the media (Hendriks, (2002). The various forms of activities allowed through civic society participation promote the formation of public opinion that is communicated into institutionalised decision making processes for formalisation.

This view was shared by Jane Mansbridge (1999) who proposed the use of the deliberative system that consists of a deliberative continuum along which formality differs as suggested by the macro deliberative democrats. The view elaborated the position that deliberative designs such as citizens' juries, consensus conferences, planning cells, protests and boycotts demonstrates the ability of Civil Society to create genuine platforms for citizen participation in policy making processes. Literature is therefore elaborate and demonstrates that policy making calls for a redefinition of state-society relations and the fact that modern states

encourage more blurred boundaries between the state and Civil Society. This is the view that was shared by Morgan Tsvangirai in the National Constitutional Assembly Annual report of 1998, when he responded to evidence that the Constitutional Commission had been inadequate in accommodating the views of the people as it side-stepped inclusive mechanism envisaged by the National Constitutional Assembly (NCA). He wrote that:

> "The people should be the key players in the process of building a new constitution for Zimbabwe. For this reason, the NCA [would] not participate in a defective [constitution-making] process' that was not democratic, transparent and all-inclusive; and the government's involvement in the making of the constitution should be facilitative and not determinative".

The 'NO' vote was an affirmation of the determination of the Zimbabwean people to have a meaningful contribution on the constitution making process (Olivier, 2007). The campaign for the 'NO' vote took the form of utilised the various programs, including demonstrations, rallies, media publicity, consensus conferences, planning cells and protests, as spelt out in macro deliberative democracy. Civic society used its structures to reject rather than support the government constitution making process.

2.11 Constitution and Constitution Making in a Deliberative Setting

Constitution development is in itself policy making. Jon Elster (1998) defines constitution making as the crafting of a set of laws whose finished document must be adopted in full and not in piecemeal, regulates most fundamental aspects of political life, and takes precedence over ordinary laws. The essence of deliberation in constitution making seeks to address the obvious fact that he that can bind can release (Hobbes, 1640). Citizens need to define and drive the constitutional reform process for it to gain legitimacy. In the contrary, an elite process in constitutional development is exclusionary and may not secure policy legitimacy resulting in either policy rejection at the referendum or calls for amendments after adoption. There are various features that define the extent of democratic practices in the constitution making process.

Jon Elster (1998 page) identifies some of the features to include the following summarised positions:

- an elected commission to manage constitution making process and not parliament,
- that institutions set to benefit from the constitution be excluded from the process, such as the Executive, judiciary and the military,
- the process should entail both an element of secrecy (committee discussions) and some publicity in the media and in plenary discussions. Secrecy promotes serious deliberation and argumentation while publicity may lead to "grandstanding and rhetorical overbidding",
- participation in the reformers assembly should be by election and not by selection, while,
- Armed forces should not be in the proximity of the consultative process. The presence of the army spoils the environment, as the army may resort to "force-based threats" and instead rely on the "force of better argument" (Habermas 1975, 108),
- the new constitution should be subjected to popular ratification by a referendum and
- the adopted constitution should transcend above short term and partisan interest and this can be achieved through delayed adoption into law of the new constitution.

A democratic constitution should ideally emerge from a democratic process that is punctuated by citizen participation and the entrenchment democratic values and principles in its content; as such the conditions articulated by these theorists are vital for the purpose. The Zimbabwean experience fails the test. For instance, the iniquitous constitutional settlement at Lancaster House, just like the Global Political Agreement (GPA), was a product of forced negotiation through a process that lacked participation by national stakeholders (Austin, 2009). Some provisions in the constitution were unacceptable to the negotiating parties but got imposed on the final document and this limited its credibility from the onset (ibid). The clauses which included a ten-year limitation on the future government's power to acquire land compulsorily for state purposes; executive presidency, white representation and citizenship; were discredited as an attempt by the white settler and the negotiator to perpetuate white supremacy, protect their economic interests and compromise power transfer to the black majority (Kagoro, 2004; p236).

In response to these machinations, and rather than aiming for an all-inclusive constitution, the Zanu PF and the other parties at the negotiation table focussed on power transfer and as such used the test based on "whether the government of Zimbabwe could govern effectively despite their presence in the Constitution" (Kagoro, 2004: 243). In the end the constitution that emerged from the Lancaster House negotiation process was illegitimate, failed to address the aspirations of Zimbabweans and lacked deliberation and participation and therefore lacked credibility, resulting in the 1980 constitution attracting 19 amendments, all of which were parliamentary and political party driven.

2.12 The Ladder of Citizen Participation

Arnstein (1969) gives a typology of a "*ladder of citizen participation*" to demonstrate the eight levels of public participation as a means of elaborating the intensity and genuineness of participation in policy making by the citizens. The citizen participation ladder is applicable in measuring the extent to which deliberative democracy is applied in policy formulation. In the lowest rung of the ladder, Arnstein observes that the power holders present non-participation as genuine participation.

Citizens are placed in consultative committees for purposes of educating and engineering their support – in a public relations stint in the rhetoric name of high-sounding grassroots involvement. Similarly, another dishonest and arrogant participation level relates to the therapy approach where experts treat citizens as a therapy group in need of clinical help; however the help is incapable of addressing the ailment as it is not genuine (Ibid).The third level in the citizen participation ladder is informing. This is a one-way flow of information from planners to citizens who have little to contribute to the ultimate policy. Meetings between planners and citizens are meaningless as no output is expected.

Arnstein (1969) identifies consultation as the forth level where citizen's contribution has no guarantee of being taken on board, making participation a 'window-dressing' exercise or ritual. At this level, participation is about participation in participation with power holders certifying that they have gone through the motions of involving those people. Arnstein describes the next level as the placation level, where a few poor individuals may be placed in key decision making boards with a minority voice and without necessarily accounting to a

constituency in the society. The have-nots are easily outfoxed and outvoted due to little influence and access to decision making processes. Arnstein (1969) asserts that this is equivalent to citizen involvement in non-policy making policy boards.

In the sixth level, power is effectively distributed through negotiations between citizens and the power holders, in a 'give and take' deliberative process. In the seventh rung, negotiations achieves to tilt power in favour of the poor and the powerless, enabling them to gain a leading role in decision making and therefore assuming a delegated power status and veto power over decisions and policies.

These were aptly captured in figure 3 which has a column the Arnstein's (1969) Ladder of participation and Patten's (2001) Deliberative Democracy theory. The two theories are placed in this manner in order to elaborate the manner in which increased participation results in increased deliberative democracy.

Figure 3 **The Participation Ladder and Democratic Deliberation Intensity**

	Participation Rung (Arnstein, 1969)	Democratic Deliberation Intensity (Patten, 2001)
8	Citizen control	Meaningful deliberation, guided by a communicative rationality, cultivating mutual understanding. There are equalised deliberative capacities through equal distribution of resources. Open consultation leading to collective decision making. Recognition of the rights and interests of the marginalized minorities. Society is empowered in policy making.
7	Delegated power	Negotiation and deliberation leads to transformation in favour of public interests. Based on the principles of 'membership rules, political equality, and binding collective decisions'. Power shifts in favour of the poor minority as they are capable of providing veto power on policies and decisions.
	Partnership	Decision making processes are based on 'give and take' between citizens and the state. Group preferences are protected. 'Give and take' is achieved through open and respectful democratic deliberations.
5	Placation	Citizens are involved but in non-decision making related processes and issues. There is insignificant democratic deliberation as participants to decision making processes do not account to any constituencies.
4	Consultation	Participation is a 'window-dressing' exercise or ritual. Consultations are not related to real policy issues and therefore counts to nothing. Deliberative democracy and democratization of policy making does not exist.
3	Informing	Decision making is undemocratic and non deliberative due to one-way flow of information from planners to citizens. Citizens are not meant to give any input to decisions that affect them. Planners are deemed to know and therefore provide guidance and dictate processes and content to citizens while the minority interests are not captured. No justice, transformation through argumentation, and as such no policy legitimacy.
2	Therapy	Deliberation is dishonest and is not genuine. Citizens are treated as if they are patients in need of medical treatment, as such incapable on equal and informed discussion. The assumption seems to be that citizens have unequal deliberative capacities.
1	Manipulation	No deliberation. Citizens are not equalised even though some state resources are poured in some community involvement stint. Citizens' voices are not heard and there is no prospect for change of position through reason giving and reflection.

Degrees of citizen power

Degrees of tokenism

Non Participation

Adapted from Arnstein (1969) The Participation Ladder (modified)

The highest level of participation is citizen control. This is a highly intensified consultative process where citizens will have control on the running of affairs in various spheres of the society. The last three levels of participation lay out in the ladder, citizen control, delegated power and partnership creates the best environment for deliberative democracy.

This study applied the framework in Figure 3 in order to better understand the level of citizen participation within the constitution making process.

2.13 Constitution Making and Political Power Transfer

The investigation into public participation and the extent deliberative democracy in the constitution review process revealed that the outreach process had been carried out to facilitate power transfer or to declare authority in the history of Zimbabwe. Beginning with king Lobengula's concession to the British South Africa Company of 1888, the transfer of colonial control and rule to the British colony in 1919, the Unilateral Declaration of Independence of 1965, the defective Lancaster House settlement constitution of 1979, state power reconfiguration attempt of 2000, and the ongoing regime change centred process, the revisions were aimed at power transfer (Austin, 2010). The other 19 amendments done to the 1980 constitution were all aimed at regaining lost opportunities and power leverages from the Lancaster House conference, Kagoro, 2004). This has compromised the process as politics and power eclipsed citizens' authority. Power contestation centred on Executive authority, citizenship, white representation and agricultural land ownership, (ibid).

Focussing constitutional reform on political power transfer mires the process with self interests and subjects it to manipulation and the use of threats and force. In the end the final product will not be reflective of the people's views and aspirations as was the case with Lancaster House constitution, which was subsequently amended 19 times.

2.14 CONCLUSION

There is evidence from past research that public participation and democratic deliberation in the policy making process have not been exercised fully in Zimbabwe (Zwizwai, Kambudzi and Mauya, 2004).

and that most policies formulated with little participation from the public failed at implementation stage.

Whereas the pre-colonial era was characterized by consultations confined to the white community, the newly liberated Zimbabwe resorted to a partocratic policy system that denied ordinary citizens participation in the public policy making process (Kambudzi, 1998). It would appear that there has been continued reliance on the partocratic policy approaches by the Inclusive Government even though the GPA provided a new institutional framework for decision making, as these structures have suffered still birth. It is critical to examine the ongoing processes for the constitution making process in order to establish whether participatory deliberative democracy is being utilised in policy making within the context of the Inclusive Government.

The literature review has provided an insight into the theory of deliberative democracy and how it relates to public participation by way of contrasting and emphasising on the strength of argumentation as opposed to that of negotiation (Gutmann & Thompson, 2004). Policy legitimacy is derived from procedure and citizen participation. Similarly, civic society involvement in a deliberative setting bequeath policy acceptance which in turn enable easy implementation. Institutions are important in policy making as they are made up of rules and procedures, principles, norms and ideas that shape the policy actors' behaviour and ultimately their attitudes, and as such as they promote the clarity necessary for policy formulation. In order to understand the nature of existing structures of policy making, it is necessary to understand the role of policy communities, policy networks as well as to consider state-society relations.

The literature review section has highlighted existing knowledge on the essence of deliberative democracy and public participation in public policy formulation in fostering transformation and national development. Literature also depicted that policy making in the pre-colonial era was white dominated while the post colonial era has been dominated by the ruling class through decisions made by political party structures (partocratic) of ruling parties, thereby excluding the majority of the citizens in Zimbabwe.

The previous attempt in 1999-2000 on constitutional reform were associated with limited public participation leading to the rejection of the proposed constitution by the Constitutional Commission set up by Government. Similarly other policies developed by the Inclusive Government have also been rejected both by the citizens and other stakeholders and at times by government itself due to insufficient consultation. This research will help close the knowledge gap on what approaches the government is using in the ongoing constitution reform process.

The research utilised the Arnstein's Ladder of participation, Elster's (1998) deliberative setting and Patten's notion of the tenets deliberative democracy to determine if the constitutional reform process was handled in a manner that facilitated and accommodated the interests and wishes of all citizens, including the minority. The eight rungs articulated by Arnstein and the conditions deliberative democracy proposed by Elster (1998) will be relied on to establish the level of deliberative practise experienced during the consultative process.

CHAPTER 3

RESEARCH DESIGN AND RESEARCH METHODS

3.1 Introduction

This section outlines the approach to this research, methods and techniques, research instruments, population sampling, field operations and data processing. Briefly, the study sought to investigate the extent to which participatory deliberative democracy is applied in the policy process in Zimbabwe. Using the constitution review process carried out from 2009-2010 as a case study, this qualitative research sought to establish the extent to which participatory deliberative democracy was used.

It was carried out by a researcher who is located with the policy community of the subject matter posing a risk that he may be biased in analysis and possible failure to gain access to some policy makers in government. However this was circumvented through wearing the eyes of the grassroots and opting for academic analysis rather than engaging in propaganda stance.

3.2 Summary of Methodology

There are three approaches to social science research, positivist social science (PSS), interpretative social science (ISS), and the critical social science (CSS) (Neuman, 2006). This study will rely on ISS “to explore the behaviour, perspectives and experiences of the people” relying on the “interpretive approach to social reality" (Holloway, 1997, p.2). It allows the study to focus on understanding the way people interpret and make sense of their experiences in their natural environment.

By its nature, qualitative research seeks to establish the “how” and “why” aspects of a phenomenon. It uses the naturalistic approach to understand the phenomenon in a context-specific setting without attempting to manipulate it (Patton, 2002, p. 39). Social science research has relied on three approaches; namely statistics, formal modelling and case study. This research prefers the case study approach – defined as a detailed examination of an aspect of a historical episode so as to develop a historical explanation - due to it’s emphasises in causal mechanisms – the cause-effect explanations (George and Bennett, 2005). Case studies are superior in that their high potential for achieving conceptual validity, strong procedures

for developing new hypotheses and their capacity to deal with complex causality (ibid). A process-tracing approach used in case studies helps in "exploring many of these aspects of complex causality" (ibid).

A case study, as articulated by Barry MacDonald and Rob Walker (1975), is "the study of the instance in action", giving the sense of being there or as posited by Bassey (1999, p. 24), the "study of a bounded system" that is based on a unit of analysis. As posited by Yin (2003), case studies "...are preferred strategy when "why" and "how" questions are being posited, when the investigator has little control over events and when the focus is on contemporary phenomenon within some real-life context". It was therefore apt that this strategy was employed. The researcher employed this strategy and confined it to the constitution making process held in Zimbabwe from 2009 to 2010.

3.3 Methods and Techniques

There are two methodologies that are applicable to the policy research namely; quantitative and qualitative (Creswell, 2002). Quantitative research is aimed at establishing explanations and predictions for purposes of establishing, confirming and validating relationships and developing generalisations with potential to contribute to theory.

On the other hand, the qualitative research applied in this study, seeks sound explanations and appreciation of complex situations through exploratory and interpretations that build theories on the issues under examination. Qualitative research rely on data emanating mainly from textual, informative and sample type, loosely structured and non-standardized observations and interviews. While the application of both approaches will at the same time consolidate value derived as compared to the utilisation of one methodology or the other (Creswell, 1998; Glesne and Peshkin, 1992), in this research, and based on the problem question, the qualitative methodology is the most ideal. The constitutional reform process was used as a case study on policy development in Zimbabwe from 2009 to 2010.

The approach is more holistic as the researcher participated with an open mind and got into the research without preconceived positions. It relied on a few participants for data collection, using semi-structured interviews in natural settings and therefore closer to true life situations, capturing emotions and perceptions (Gillham 2000, p. 60). This enabled collection of

appropriate data on interviewee experiences, and therefore assists in understanding the constitutional reform process. Research questions were answered through data analysis and interpretation to identify similarities and differences between coded fragments, coherence and incoherencies with categories, relative importance of categories and concepts in relation to Arnstein's (1969) ladder of participation.

3.4 Data Collection and Research Instruments

The research relied on documentary evidence, the researcher's experience and observations as well as targeted semi-structured interviews on public participation in the constitution making process in Zimbabwe for data collection. The researcher visited libraries, research institutions and tracked newspaper publications to gather data related to the constitution making process. The researcher also visited and observed some of the COPAC outreach meetings to gather information relating to the quality of deliberation at the meetings.

These were effective methods that took advantage of the researcher's position within policy communities and policy networks in Zimbabwe. Semi-structured questions were used for primary data collection from eight strategic interviewees. The use of interviews is considered to be adaptive as it allows data collection on varied subject matters (Creswell, 2002). Targeted individuals were selected from within the policy communities or alternatively had the expert knowledge on the policy matter and decision making processes of the Government of Zimbabwe as well from policy organisations working on the constitutional making process. The questions were crafted to assist the researcher to secure critical information on public participation and decision making patterns on policy matters in the country, the challenges faced and opportunities available for improvement. The following questions were asked (Figure 4):

Figure 4 Semi-Structured Questionnaire

ITEM	QUESTION
1.	Explain the context of the ongoing IG initiated constitution making process.
2.	Draw up the framework for the ongoing constitution making process in Zimbabwe.
3.	Describe your understanding of public participation.
4.	Identify three key players and explain their role in the constitution making process.
5.	How would you describe citizens' level of knowledge on constitutional issues?
6.	Describe the extent of participation by citizens in the constitution making process.
7.	Illustrate how different the 2010 process was from past constitution making exercises.
8.	To what extent was the process of crafting the talking points participatory?
9.	Did the platforms and approaches facilitate free capturing of views by citizens?
10.	Describe the effectiveness of the role played by the media.
11	How effective were the funding arrangements adopted for the consultative process.
12	To what extent did the content reflect the wishes and aspirations of citizens?
13	Illustrate why this constitution will stand or fail to stand the test of time.
14	What possible improvements can you suggest for future policy making programs?

Semi–structured questions were designed and used to secure responses from eight experts during unstructured interviews. The questions were aimed at assisting the main and sub-questions in securing informative responses from the targeted experts. Valuable insights were obtained and these helped in perceiving themes and concepts during data analysis.

3.4.1 Targeted Population and Sampling

There are a number of ways to sample selection including; haphazard, accidental, quota, purposive, snowballing, deviant case, sequential and theoretical (Neuman, 2006). In a qualitative study of this nature, the aim is not to cover as much representativeness as possible; instead, it is to secure as much insight into the nature and meaning of life from the specific cases chosen, or to secure in-depth access to difficult-to-reach population and to enable deep research into chosen areas (Ibid). A purposive sample of eight interviewees drawn from the

Government of Zimbabwe, in policy institutions and in Civil Society located in policy networks were interviewed as per table below;

Figure 5 Interviews Participants

	Interview Date	**Name of Organisation**	**Position of Interviewee**
1	13.12.2010	Zimbabwe Institute	Director
2	14.12.2010	Election Resource Centre	Coordinator
3	14.12.2010	The Media Centre	Director
4	15.12.2010	National Constitutional Assembly and University of Zimbabwe	Chairperson and Lecturer respectively
5	16.12.2010	Crisis Zimbabwe	Programs Manager
6	17.12.2010	Institute for Democratic Alternative in Zimbabwe	Governance and Democracy Manager
7	18.12.2010	Zimbabwe Coalition on Debt & Development	Programs Officer
8	18.12.2010	The Constitutional Select Committee	Secretariat

Targeted individuals helped provide insight into policy development with a special focus on the constitution making process in Zimbabwe.

3.4.2 Government Officials

Within the government structure, the researcher targeted quasi-government institutions responsible for implementation of government policy. Focus was on COPAC, which is implementing the policy initiation process. The official provided insight into the policy making process in Zimbabwe. An in-depth understanding of the processes gained through participation in the consultative process was useful in shading light into the extent and nature of public participation in the constitutional reform process.

3.4.3 Policy organisations

Some of the key policy institutions involved in policy development and analysis in Zimbabwe and abroad are the Institute for Democratic Alternative for Zimbabwe (IDAZIM), the Elections Resource Centre (ERC), Zimbabwe Institute and Zimbabwe Coalition on Debt & Development (ZIMCODD). These organisations were targeted for data collection.

Face-to-face interviews were conducted to ensure that the interviews captured emotions as well as facial expressions from the interviewees. Within the identified organisations, focus was on Policy Directors and Chairpersons of the respective organisations who are involved in the policy networks and subsystems. These were targeted as they are more knowledgeable and experienced in the area under study. Some of the organisations had actively been involved in the monitoring of both the GPA in general and the constitutional reform process in particular. For instance, the Zimbabwe Institute had been at the centre of facilitating negotiations leading to the signing of the GPA, which then mothered the consultative process.

3.4.4 Civil Society and Stakeholder Organisations

A number of Civil Society organisations were involved in the analysis of policy development in Zimbabwe and these were targeted for interviews. These stakeholder organisations, in particular the National Constitutional Assembly (NCA), the Media Centre and the Crisis Coalition Zimbabwe have special interest in the constitution making process in Zimbabwe.

3.5 Field Operations

Interviews were carried out by the researcher personally in-order to gain a deeper understating of the social life of the targeted individuals. Chances of facing problems in data collection were limited due to the placement of the researcher as a policy actor within a political party in the coalition government. In addition the constitutional making process is of public interest, any interested citizen was able to carry-out the study without hindrance. The employment of the researcher by a political party in the Inclusive Government limited his access to some government officials aligned to other political parties. However, some other individuals with equally valuable information were targeted for interviews.

Documentary analysis was also used to deconstruct content secured from libraries and policy organisation. Valuable information was secured from COPAC, the National Constitutional Assembly and government offices in charge of running the program.

3.6 Data Processing

3.6.1 Data Analysis

The collected information is coded to extract constructs from the content analysis using a coding system (Babbie, 1995), guided by Arnstein's ladder of citizen participation. Arnstein's ladder of citizen participation was used to pigeonhole data. The measurement is based on structured observation from interviews to identify directions, processes, frequency, intensity and space of any continuum in relation to the research question. The coding system relied on information from interviews (Figure 6). Based on the concepts dealt with in literature review and the issues captured in the semi-structured questionnaires, Figure 6 sought to present refined and simplified concepts that will be used during data coding and data interpretation.

Figure 6 Deliberative Participation Summary Template

Data Codes [*based on use of ideas, Themes & Concepts*]	**Arnstein (1969) Ladder of Participation**								**Commentary [*based on Patten(2001) Guidelines*]**
	1	**2**	**3**	**4**	**5**	**6**	**7**	**8**	
Context									
Structure									
Citizens' Knowledge									
Inclusivity									
Military, Executive and Parliament									
Attendance at meetings									
Quality of debate									
Media Performance									

The use of themes, general ideas or concepts as tools for generalisation was applied in the coding system. The development of concepts was assisted by data analysis and this process began at the very onset of the research during data collection. It assisted in defining and refining grounded concepts. The data was therefore organised into themes and concepts that gave meaning as critical questions were asked and new evidence secured.

3.6.2 Data Interpretation

Coding is an integral part of data analysis that takes the researcher away from the details of raw data to higher levels of critical thinking and towards theory and generalisations. It allows data to be manageable and retrievable in parts. Boyatzis (1998:31) notes that "a good thematic code is one that captures the qualitative richness of the phenomenon. It is usable in analysis, the interpretation, and presentation of research". Analysis of data is through searching of themes, through potentially subjective and biased methods. Inductive reasoning is applied. The researcher will therefore arrive at given answers from the presented information.

3.6.3 Validity and Reliability

Prior to presentation of data, the validity of data was established. Some qualitative researchers have questioned the relevance of the concept of validity to this type of research (Cresswell, 1998; Guba & Lincoln, 1998; Lather, 1991), with some preferring instead to use credibility, dependability, conformability, verification, and transferability (Lincoln and Guba, 1995; and Cresswell, 1998). However this research relied on the use of triangulation through data comparison with revelations from tracking of developments through newspaper articles, peer debriefing and prolonged engagement (Lincoln and Guba, 1985).

Data was checked for content and construct validity through use of documentary analysis particularly from newspaper articles and follow through questions to the interviews on the subject matter. The information will be availed to peers who are knowledgeable in the area under research for negative case analysis. Informative researcher's contributions to the content and construct using grass roots eyes within the world of the participants helped in validating the data.

3.6.4 Data Presentation

The findings were communicated through a voice that narrates through words that include individual quotes, to emphasise personal feelings and emotions. These quantitative techniques were used to compare texts in qualitative research through use of charts, graphs and applying code data entered into a computer program on secondary data secured from COPAC and libraries. Data secured elaborated on the use attendances at consultative meetings, incidences of violence and intimidation as well as wards distribution in provinces.

3.7 Significance of the Study

The study helped close the knowledge gap on the extent to which deliberative democracy and public participation are applied in public policy formulation with specific focus on the constitution making process in Zimbabwe. A case study of the constitution review process carried out in Zimbabwe helped reveal the extent and depth of consultation in public policy.

3.8 Limitations of the Study

The study was constrained by the researcher's inability to carry out extensive visits to monitor COPAC outreach programmes, due to time and financial limitations. As a result, there were limitations on the ability of the researcher to determine the extent and genuineness of the consultations taking place at the meetings. The researcher overcame this challenge by viewing video recordings of the COPAC meetings.

Another problem faced related to some of the government officials who may have been biased towards some political parties due to the polarised political environment in the country and may not have been willing to have genuine discussions on the issue at hand. As a result true interpretations of contributions from interviews were difficult. This problem was circumvented by targeted technical staff rather than politicians. Bureaucrats with an academic background appreciated the value of academic research, and were therefore willing to shade light on the issues that were under investigation.

The location of the researcher within the policy network may have resulted in biased analysis of results since the constitution making process is an emotive subject in Zimbabwe. Judgement and predictions may have been influenced by his location within the policy

community and network. However, the researcher sought to approach the analysis from an academic perspective removing possibility of bias towards political orientation. The researcher wore the grass roots eyes so as to appreciate and analyse the data from their point of view before generalisation.

CHAPTER 4

DATA PRESENTATION AND ANALYSIS

4.1 Introduction

This chapter focuses on the presentation and analysis of data collected through interviews carried out using semi-structured questionnaires during field operations and from document analysis. The findings were interpreted in relation to the research questions and literature review. The sources of primary data were semi-structured interviews while secondary data was derived from documentary analysis. Eight selected informants were targeted for the semi-structured interviews. Documentary analysis was carried out from material obtained from COPAC, newspaper articles and other policy organisations.

Focus group research carried out by the Afrobarometer and another research carried out by the Elections Resource Centre (ERC) using in-depth interviews were used for documents analysis. Similarly reports on violence produced by Non Governmental Organisations and those produced by political parties were used for document analysis.

4.1.1 Data Analysis

Data analysis commences with content analysis, sifting through the material secured through semi-structured interviews and documents analysis. The material has been coded to identify text fragments, themes, categories and concepts. The codes follow text fragments in the data.

4.2 Findings, Emerging Themes and Concepts

4.2.1 Context of the constitutional Reform

There are varied perspectives to the ongoing constitutional revision in Zimbabwe. In the main, the belief is that the ongoing process is a result of pressure emanating from Civil Society and from the need to level the political playing field in preparation for general elections anticipated at the end of the constitutional process. Citizen agitation for a new constitution is said to have intensified and culminated in the formation of the National Constitutional Assembly (NCA) in 1997. As was noted by the seventh interviewee, *"pressure started piling up as early 1997 with key demands being social and economic justice as well as labour regulations"* (The Seventh Interviewee, Interview, December, 18 2010). According

to the first interviewee, *"the government responded by setting up an 'independent commission' with hand-picked members mainly aligned to Zanu PF. However their work came to naught as the 12th February 2000 referendum resulted in a 'NO' victory 'valentine's day result' of 14 February 2000"* (The First Interviewee, Interview, December 13 2010). Continued pressure from Civil Society and political parties reached pitch level on 11th March 2007, when government responded to public demonstrations through arbitrary arrests and beatings of key leaders, including MDC President Morgan Tsvangirai, the party's Secretary General Tendai Biti, NCA Chairperson Lovemore Madhuku and some church, civic society and labour leaders. The demonstrations had been organised by Civic Society and the churches in the form of a 'National Prayer for Zimbabwe' in response to continued political, economic and social melt-down.

As was noted by the first respondent, the 11th of March 2007 event marked the entry point for SADC, as the regional body sought to bring stability to a country that had been dogged by insistent unrest, worsened by disputed electoral outcomes since 2000 (ibid). SADC-led negotiations held after the 2008 election led to constitutional amendment number 18 and subsequently to the signing of the GPA as well as constitutional number 19. For the first time, Zimbabweans defined a framework for constitutional reform, through article 6 of the GPA, although the negotiation process was elitist in itself.

Even though key political parties agreed on the need for constitutional review, they did not seem to agree on the objective of such a review. As such, whereas the governing parties are pretending to conform to citizen agitation for constitutional review, they are intent on entrenching their ideological positions. Political parties are concerned with creating a conducive environment for elections, with the *"MDC seeking to ensure that such an environment can facilitate electoral victory and power transfer, while Zanu PF sought to ensure that it retains power"* by all means, accounts for the contested terrain evident during the constitution making process (The Forth Interviewee, Interview, December 15, 2010).

The seventh interviewee agreed with this view and noted that whereas the constitutional reform agenda has perennially been on the MDC agenda, Zanu PF believes that it could appropriate it to ensure that it becomes its own agenda, doing away with it, such that the opposition will not use it for future electioneering. (The Seventh Interviewee, Interview,

December 18, 2010). This position was supported by the first interviewee, who suspected that whereas the MDC might want genuine constitutional reforms, for Zanu PF, the idea is to retain the status quo as much as is possible to ensure that its existing environmental electoral advantages are left intact (The First Interviewee, Interview, December 13, 2010). The forth interviewee was of the view that political parties are engaged in rhetoric on constitutional reforms, conveniently attacking the Lancaster House settlement document, hoodwinking citizens into a futile goalless exercise, only set to advance their grassroots engage superiority endeavours (The Forth Interviewee, Interview, December 15, 2010).

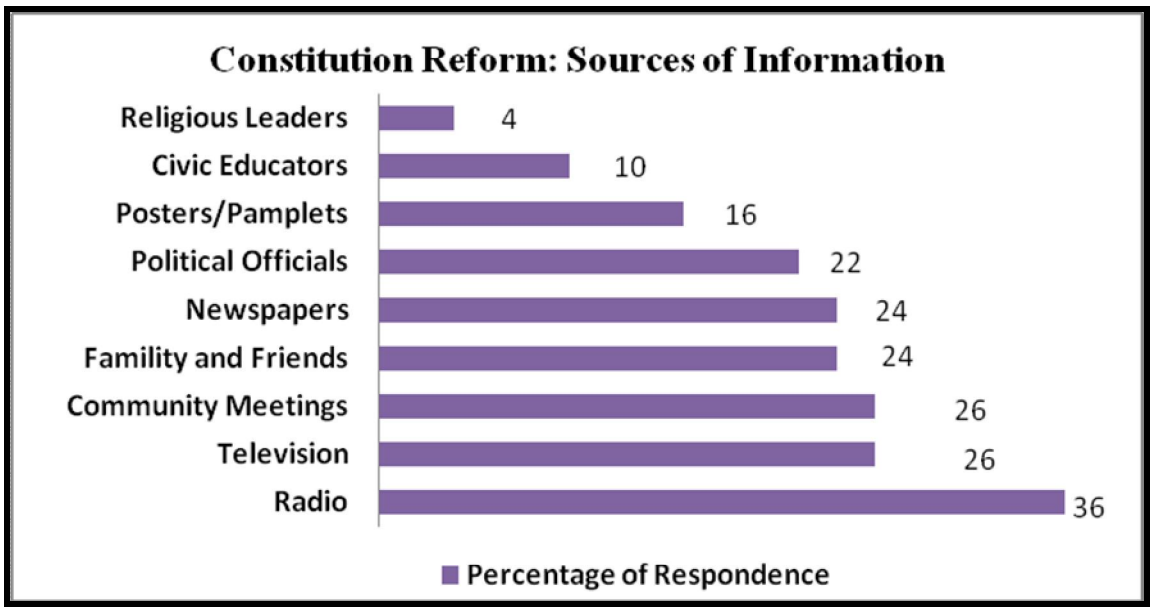
It is with this background that the fifth interviewee observed that *"power contestation has been the driving force for the constitution making process"* (The Fifth Interviewee, Interview, December 16, 2010). The interviewee noted that *"Zanu PF's insecurity, unlike the case in 2000, compels it to resort to intimidation, use of state security agents as well as its own militia applying repressive laws such as Public Order and Security Act and the Access to Information and Protection of Privacy Act to cow ordinary citizens from genuine deliberative engagements"* (ibid).

The environment under which the constitution is being made is hostile. For instance, the third interviewee observed that the constitution making process was carried out under a hostile environment where the *"media and Civil Society are still on the run"*, politics is defined by *"intimidation, torture and coercion"* and relies on *"distrust and disempowerment egos"* (The Third interviewee, Interview, December 14, 2010). In his view, the citizenry is so divided along ideological lines, that even Civil Society has not been spared. This has tended to affect Civil Society approach to constitutional reform, as political parties have been seen to be shouting orders and receiving maximum obedience from these *"money-centred institutions"* (ibid).

While contrary evidence came from the eighth interviewee who thought that *"the environment for the meetings was not even but met the minimum conditions for people to air their views"* and that the website and written submissions provided an opportunity for citizens to freely contribute to the content of the constitution (The Eighth interviewee, Interview, December 18, 2010), such a perspective could not be sustained due to evidence from other sources. In particular, this perspective is undermined by the Afrobarometer

Briefing paper number 97 of December 2010 (Figure 7). In this paper, none of participants of the survey carried out in October 2010 identified the COPAC website as their source of information. Instead 36% knew through radio broadcasts. However, it is not known whether this was from the public or private radio stations.

Figure 7 Constitution Reform: Sources of Information.



Source: Afrobarometer, December 2010

While radio and television broadcasts may have accounted for 36 percent and 26 percent as sources of information, the information was tailored to suit the position being advanced by Zanu PF (Afrobarometer, 2010). Most of the community meetings held were led by party militia and as such led to the spread of incorrect information. The evidence presented, when juxtaposed with Arnstein's (1969) participation ladder, reveals that public participation in the constitution making process was in the 'non participation' rung. Participation was at placation level where processes do not lead to genuine deliberative outcomes. Citizens are involved in non decision making processes.

4.2.2 Institutional Structure for the Constitution Making Process

In the main, the Constitutional Select Committee (COPAC), (Figure 8), is the delivering structure of the constitution making process. COPAC is an off-spring of the GPA, and as such subordinated itself to the three political parties to the agreement, signed on 15

September 2008. This places political parties, and not parliament, as some observers noted, as core driving forces at the epicentre of the constitution making process. As a result, the process becomes partocratic or political party driven and not people driven as was observed by the seventh interviewee (The Seventh Interviewee, Interview, December 18, 2010).

Figure 8 The Constitution Select Committee Structure

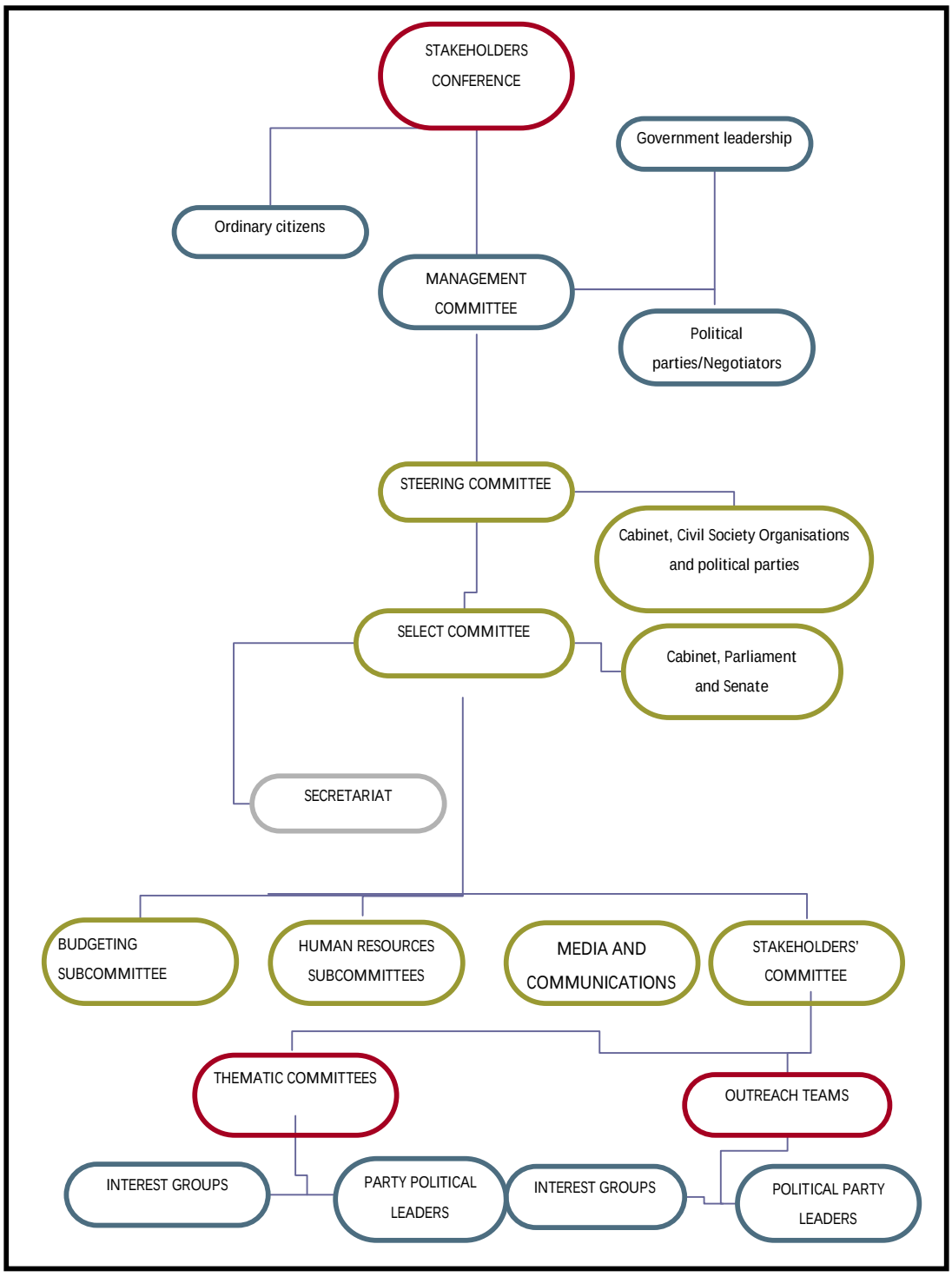
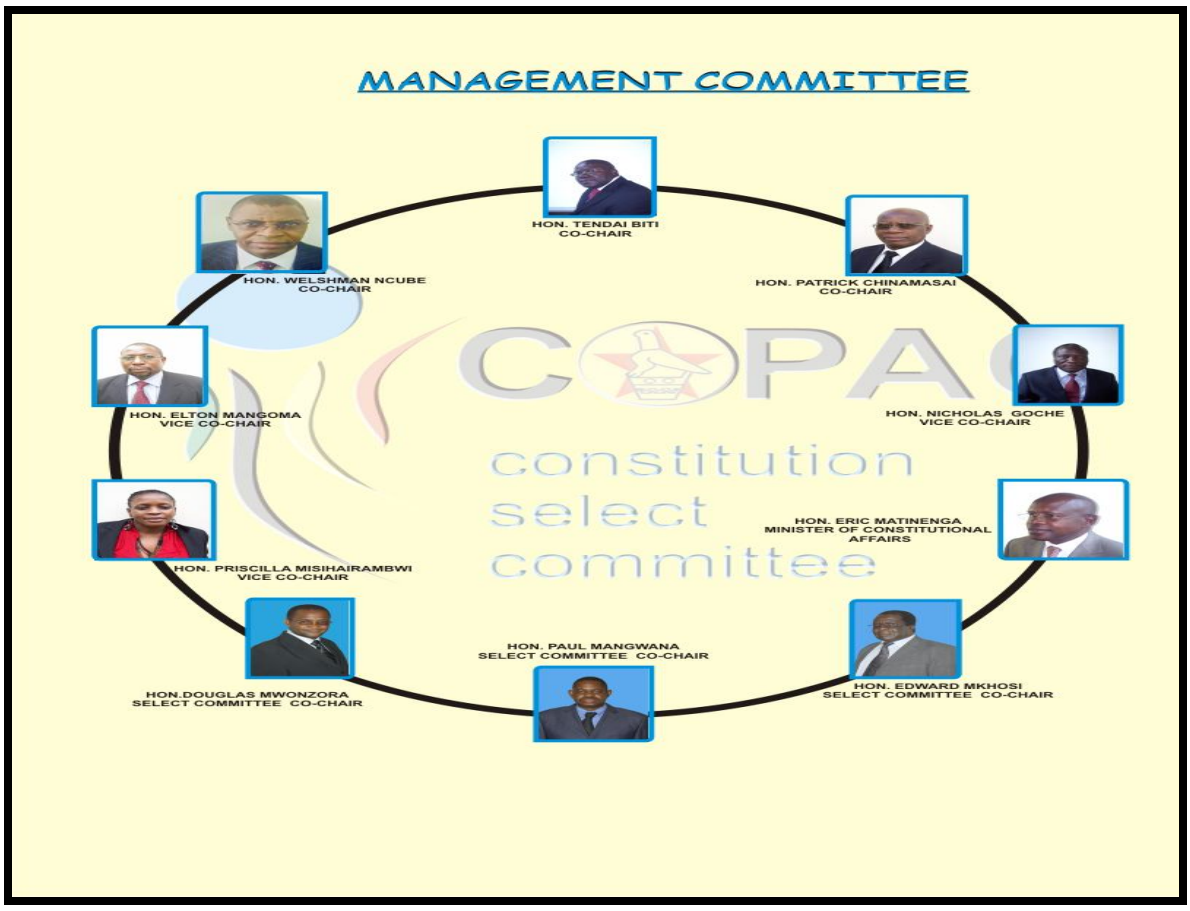


Figure 8 presents the stakeholders' conference as the highest decision making body for the process. Two conferences will be held during the constitution making process. According to the eighth interviewee, the management committee (Figure 8) was introduced by the principals in government in response to the fiasco witnessed at the first All Stakeholder Conference. The conference was dogged with management and logistical nightmares as well as disruptions due to violence witnessed at the conference venue. The committee was constituted as in Figure 9.

Figure 9 COPAC Management Committee Structure



Source: COPAC website, 2010

There is a strong view by the interviewees that the structure is both 'top-down' and exclusionary in that, while the stakeholder conference should ideally define policies, structures, processes and ultimately the content for the constitution, disruptions and logistical nightmares rendered this body unable to effectively deliver successfully making it moribund, from the onset. In the end, it was the management committee created to be in charge of policy direction of COPAC, 'closing the gap' between the Select Committee and the government

leadership, that ran the process all the way. The management committee was comprised of the six GPA negotiators, the Minister of Parliamentary and Constitutional Affairs and the three political parties' appointed Select Committee Co-Chairpersons (Figure 9).

The GPA identified political parties as the driving force behind the constitutional reform and this explains why political parties infested COPAC structures, excluding interest groups and the majority of the apolitical citizens. Civil Society has also been left to engage in non-decision making forums such as the outreach teams and the thematic committees but they are glaringly out of process definition procedures. The steering committee created to ensure that policies defined by the management committee were implemented and was comprised of the three COPAC Co-Chairpersons and two representatives of Civil Society only met twice during the implementation phase of the reform process (The Eighth Interviewee, Interview, December 18, 2010). As a result, political parties found themselves squaring up against each other on all issues, in a manner that can only be described as political power contestation. The select committee which administered the day-to-day operations of the consultative process with the support of four committees; the Budgeting committee, the Human Resources Committee, the media and communications and the stakeholders committee focussed mainly on administrative and not policy decisions. Even more, political parties and parliament seconded staff to the secretariat, aiding their control and influence on processes at COPAC.

The fifth interviewee noted that such a structure promotes the *"capturing of the views of the powerful at the exclusion of the voiceless, powerless and the minority"* (The Fifth Interviewee, Interview, December 16, 2010). This is evident from the COPAC structure where the management committee is made up of powerful politicians who occupy powerful positions in their respective political parties. For instance, the three Co-Chairpersons occupy the following position: Tendai Biti – MDC-T Secretary General, a bigger formation of the split MDC, Welshman Ncube –MDC-M Secretary General, a smaller formation of the split MDC and Patrick Chinamasa Zanu PF deputy Secretary for Legal affairs. He added that the views of the minority were captured only at the discretion of the elite politicians who also acted along party lines. The forth interviewee agreed with this sentiment and added that the statement by President Mugabe at the first All-Stake Holders' Conference *that "political parties will decide on the final content"* and that of Prime Minister Tsvangirai that the *"final document will emerge from negotiations"* serve to demonstrate the dominance of the

Executive and that of political parties in defining policy and its implementation procedures for the process (The Forth Interviewee, Interview, December 15, 2010).

It is evident that while the three chairpersons of the select committee are also members of parliament, the absence of the speaker of parliament and the clerk of parliament alludes to the diminished role that the legislature played and that parliament was trounced in the contest for the control and management of the constitution making process. Incessant fights between the clerk and the Speaker of parliament may have influenced the Executive and political parties to grab the process from the two. Yet, the changes took the process away from parliament and located it in political parties who had predominant presence in COPAC structures.

The structure did not adequately provide a framework for delivering deliberative democracy as political parties retained decision making powers at all levels and stages of the process. As was noted by the fifth interviewee, only those decisions palatable to the three political parties in the Inclusive Government would see the day, anything else was 'dead in the sea' (The Fifth interviewee, Interview, December 16, 2010). The structure constrains behaviour and in this case, the structure ensured that citizens were placed at the bottom of decision making of the consultative process. It promoted, at best participation at rung 5 (placation)) of Arnstein's (1969) Participation Ladder. The structure failed to meet the minimum conditions for deliberative democracy, as set out by Elster (1998), when he noted that the army, Executive and judiciary must be excluded from the constitution making process as they are potential beneficiary of the process and outcome.

4.2.3 Public Participation and Policy Making Processes

It was important to establish the level of citizen understanding of the notion of public participation. The second interviewee defined participation as the "*unfettered flow and exchange of ideas and credible information'*(The second Interviewee, Interview, December 14, 2010)*'*, while the third interviewee thought that participation is achieved through the "*prevalence of freedom of association, free flow of information and citizen empowerment through knowledge transfer"* for effective debate (The Third Interviewee, Interview, December 15, 2010). However, the forth interviewee referred to participation as a "*broad concept that requires that the general membership have access to the determination of the process and the outcome with neither the involvement of payment of the medium of*

communication nor the use of propaganda" (The Forth Interviewee, Interview, December 15, 2010).

The fifth interviewee observed that the participation of parliament and the military in a process that both were set to benefit was detrimental to the quality and legitimacy of the process and the product to emerge (The Fifth Interviewee, Interview, December 16, 2010). The eighth interviewee agreed with this proposition and added that participation is the creation of deliberate measures to involve the people in any process that leads to decision making, allowing citizens to have a voice and to input into policy formulation, using forums such as public hearings and public consultative meetings (The Seventh Interviewee, Interview, December 18, 2010).

Based on the interviews held from 13 -18 December 2010, Zimbabweans are generally aware of what constitute public participation and the forums that can be used to achieve genuine participation. There is an eagerness to create a framework for citizen participation in the constitution making process, by the Civil Society, as much as the parties in the inclusive government felt they had the sole responsibility to define and engage in the constitution making process on their own.

Based on knowledge from the interviews, citizens were able to distinguish between genuine involvement in policy making and pretence. The interviewees were of the views that policy formulation excluded the views of the people due to the methods adopted for gathering their views. This was corroborated by the results obtained when data gathered from the targeted informants was placed along the rungs of Arnstein's (1969) ladder of participation to establish the scale of genuineness and intensity of participatory deliberative democracy in the ongoing constitution making process. The heavy presence of the army and other state security agents in the process resulted in the ordinary citizens finding it easier to excuse themselves rather than risk post consultation dangers (violence) learnt from past experience. Based on Ester's (1998) view, the involvement of the military in the constitution making process undermines deliberative democracy and citizens' free and equal involvement. The military involvement places the process in the first rung of the participation ladder as citizens are manipulated.

Figure 10 Deliberative Participation Summary

	Arnstein's Participation Rungs								
Benchmarks	**1**	**2**	**3**	**4**	**5**	**6**	**7**	**8**	**Commentary**
Context	✓								Process was manipulated
Structure	✓								Encouraged 'top-down' and exclusivity
Citizens' knowledge		✓							No citizens education programs
Inclusivity					✓				Total1,119 million attendance at meetings
Military, Executive and Parliament		✓							Violent and Executive authority driven.
Attendance at meetings			✓						Average attendance too high for deliberation
Quality of debate			✓						Coached citizens
Media Performance					✓				Repressive laws, no coverage on content and process issues

Adopted from Arnstein's Ladder of Participation

In the first column (Figure 10), benchmarks have been identified and will be measured according to how citizens understood to have been the context of the ongoing policy process (constitution making). Furthermore, measurement will be on the extent to which the structure adopted was facilitative of deliberative democracy, the level of knowledge by citizens on the ongoing constitutional review process, the level of inclusivity, the role played by the military, Executive and parliament, level of attendance and quality of debate at consultative meetings as well as the media performance. The benchmarks were measured and placed in rungs as articulated by Arnstein in the ladder of participation. The comments in the last column were made based on experience gained during research and were relative to deliberative democracy values and practices.

The best performance was achieved on inclusivity and on media performance which were placed at the placation level. People were forced to attend meetings but not allowed to contribute on issues at hand. The operational context, the institutional structure and involvement of the military, war veterans, parliament and the Executive was manipulative. At best, the process achieved tokenism.

4.2.4 Stakeholder Involvement and Inclusivity

Political parties, the Executive, Civil Society and Donors were identified as the main influential stakeholder to the consultative process. Political parties' dominance and authority was detectable in the management committee, the steering committee, select committee, the secretariat, outreach teams, thematic committees and the sub-committees.

4.2.4.1 The Dominance of Partocratic Model

Most of the interview informants thought that political parties were involved in mobilising party structures on certain positions, formulating ideas and coaching members on specific party ideological positions. The political parties also engaged in educating their members on constitutional matters. It is political party senior representatives that were assigned and led negotiations that led to the amendment number 19 that in turn created and defined the framework for the ongoing constitution making process. Civil Society and ordinary citizens were excluded from policy and process-defining and only got engaged at the implementation stage.

The effect of coaching, where citizens were instructed on what to contribute during the consultative sessions, has been to stifle debate and ensure that political party leaders define citizens' views. As a result, elitist views were captured at the expense of minority and defenceless people's aspirations.

As was pointed out by the second interviewee, *"Operation Chimumumu"* loosely translated as 'remain silent' was initiated by some Zanu PF militia as well as some military personnel in some provinces to silence citizens and intimidate them against giving their views towards the constitution reform process. The operation involved the appointment of political party spokespersons that were authorised to speak party positions during consultative meetings. *'Operation Chimumumu'* had the effect of silencing most citizens and allowing just a few

identified point persons to 'parrot party positions'. As such the majority of the citizens' views were excluded despite the fact that they would have attended the scheduled meetings (The Second Interviewee, Interview, December 14 2010).

Members of parliament participating in the outreach program were operating in 'straightjackets', advancing party positions using various tactics. In some cases, some MPs used *"protracted opening prayers to pre-empt discussions and advance party positions and ideas"* (The First Interviewee, Interview, December 13, 2010). For instances, an opening prayer would go as follows; *"Father who art in heaven, lead us to confine ourselves to issues that allow our land to remain in our hands, do not allow sell outs to speak foreign sponsored positions that will take away our pride, our sovereignty and our wealth. Father, assist our people to realise the value of our liberation heroes and the blood that was shed, and help us to use a firm hand to instil fear in our enemies who are with us today"* (ibid). Commenting on this practice, Co-Chairman Hon. Douglas Mwonzora had this to say *"At Chizungu Primary School in Epworth today (yesterday) the prayer said in front of me and Mangwana was political, blasphemous and called for the death of some people."* (The Standard, 21 September 2010). The 'prayers' had the effect of fixing an intimidating tone and upsetting deliberations at the meetings, effectively thwarting debate.

This point was confirmed by the second Interviewee who observed that the use of written instructions written under bare feet by some members in the outreach teams, to inform fellow members of their party on party positions on the constitution during the consultative meetings was detected in Manicaland province (The Second Interviewee, Interview, December 13, 2010). For instance, MPs in the outreach teams would write informative words under their feet before positioning the feet to inform party supporters on key positions during the consultative process. The MPs would be sitting in front of the participants at the meetings. This practice had the effect of diminishing the level of confidence among citizens, thereby limiting debate and deliberations at the consultative meetings. Participants relied on written instructions for deliberation.

As a means to advance its power retention agenda, Zanu PF had been "*instigating chaos and violence in order to render the ongoing process useless, incredible and illegitimate"* (The Second Interviewee Interview, December 4, 2010). The party started campaigning for a

'YES' vote even though the thematic committees responsible for crafting the draft constitution positions using the collated data was yet to assemble. Its idea is to cause confusions, pre-empt positions, render it buffoon and maintain status quo, an environment favourable for its own electoral victory. Evidence gathered also shows that Zanu PF had not only relied on state security agents to foist its constitutional positions on citizens, but had brought in the intelligentsia, who had in fact been strategizing on its behalf (The Forth Interviewee, Interview, December 15, 2010).

The use of these sectors of the society enhanced the role played by political parties in imposing their position on the constitution. In this respect, the tendency has been that *"Zanu PF plays the ball and makes MDC –T to chase the ball"* (The Third Interviewee, Interview, December 14, 2010). It appears that Zanu PF agenda has been to outfox the MDCs and pinch the constitution agenda from its political opponents, while ensuring that democratic values are not entrenched in both the process and in the end product. Commenting on the same subject in *The Herald* newspaper, Prof Jonathan Moyo, a political analyst and Member of Parliament for Tsholotsho had this to say:

> *"While it is the MDC-T which insisted on having COPAC to gather the views of Zimbabweans on the kind of constitution they want for themselves and posterity, despite the fact that already there's a Kariba draft constitution which reflects the national consensus developed over the last 10 years, it is Zanu-PF which used its grassroots structures, leadership and governance capacity in between the elections to determine the outcome of the COPAC outreach in a big way. As things stand, and there's nobody who does not know this, more than 80 percent of the views gathered during the COPAC outreach reflect Zanu-PF principles, views and positions on key constitutional matters, many of which are now enshrined in the current Constitution through amendments over the years.*
>
> *Therefore whether Zimbabwe adopts a new constitution based on the COPAC outreach or retains the current Constitution presents no challenge of any kind to Zanu-PF: If it's heads in the referendum next year Zanu-PF will win and if it's tails the MDC-T will lose! It is perhaps the realisation of this unassailable fact that has prompted Tsvangirai to unashamedly declare that the COPAC exercise*

> *is transitional or temporary and that his MDC-T will undertake a permanent exercise alone allegedly when it gets into power alone"* (Moyo, 2010, November 20, The Herald)

His analysis is apt. The prevailing situation which was well captured by Jonathan Moyo, had rendered the MDC formations to play second fiddle to Zanu PF as the former had not made effort to mobilise its key constituencies, such as the students, labour and Civil Society. In addition, the MDCs had failed to maintain historical positions on the principle of *"people driven constitution making process but instead opted for a negotiated settlement"* (The Third Interviewee, Interview, December 14, 2010). This position contradicts the notion of deliberative and participatory policy making in that negotiations and not discussions shape policy development.

The other important point made by Professor Jonathan Moyo's article perhaps against his wish, is that political parties were contesting for space to influence citizens' views on the constitution, in which case, according to his own assessment, Zanu PF trounced the MDC-T.

The environment for the consultative process was generally footnoted by the gagging of media through the leverage of some political parties in government processes. Zanu PF made sure that the state media reported and advanced its position and brandished its opponents during the outreach process (The Third Interviewee, Interview, December 14, 2010). Biased reportage resulted in misinformation and generally lack of appreciation of constitutional issues. If this is weighed against Arnstein's Ladder of participation, and the *Deliberative Participation Summary* captured in figure 10, it can be concluded that this process was partocratic and as such excluded the majority of the Zimbabwean citizens, because the structure had strong party and Executive presence, and is on rung 1(Figure 10) while the quality of debate was thwarted (rung 3 in figure 10) due to parroting of party positions.

Deliberative democracy was heavily undermined by the role played by political parties resulting in negotiations rather than deliberative participation. The continued partocratic approach to policy making led to the eclipsing of the people's views and adoption of political parties' position instead. The prevalence of violence worsened the situation pinching the

credibility of the process, as most citizens did not participate or participated under instructions of what to say, rendering it non-consultative.

4.2.4.2 The Understated Voice of Civil Society

Civic society representation was generally low in the constitution making process. The point was echoed by the eighth interviewee who noted that the steering committee, created following intense pressure from both the donor community and Civil Society lacked *"stamina and it died a stillbirth"* (The Eighth Interviewee, Interview, December 18, 2010). The committee was intended to supervise policy implementation. In any event, the inclusion of Dr. Hope Sadza and Prof. Makhurane in the steering committee was non-consequential considering that both persons, representing Civil Society, did not sit in the Management Committee where decisions are made, yet they were expected to supervise policy implementation. This alienation of Civil Society affected its influence and leverage to determine policy and implementation guidelines, as the structures became closed and inaccessible.

Similarly, whereas the National Constitutional Assembly was involved in citizen education and community mobilisation on constitutional matters during the 1999 Constitutional Commission process, the same organisation chose to condemn the ongoing, Inclusive Government driven constitution making process without necessarily providing an alternative voice on content and process issues (The Seventh Interviewee, Interview, December, 18 2010). In a situation where participation by Civil Society became undermined as was the case, inclusivity becomes a challenge while consultation turns into what Arnstein's (1969) Ladder of participation regarded to as therapy.

4.2.4.3 The Negative Role Played By Donors

Donors had a negative role in the participation of Civic Society organisations in constitution making process. This view was supported by the seventh interviewee who thought that some Civil Society organisations chose to participate and to carry out some specific programs only because *"these were the funding lines available"* from the donors (The Seventh Interviewee, Interview, December 18, 2010). He felt that most Civil Society organisations that participated

in the consultative program were *"money-driven"* and ended up *"holiday-making"* allowing political parties to drive the process without hindrance. In addition, lack of strategic direction and focus led to non-action by most of the Civil Society (ibid). In his view *"money"* became the major driving force as well as a major source of challenges bedevilling the process. For example, some MPs complained over the level of allowances for the outreach programs, while citizens felt that the MPs were milking public coffers much to the detriment of the program. In one incident, a group of MPs and some members of outreach teams went and demonstrated at the COPAC offices demanding suitable payment.

The negative media publicity emanating from these incidences had a harmful effect on the process as the general population lost confidence in the process, leading to loss of credibility. Some informants thought that the *"UNDP confused funding arrangements led to logistical nightmares that were taken advantage of by state bureaucracy"* who began to manipulate the process in favour of Zanu PF (The First Interviewee, Interview, December 13, 2010). District and Provincial Administrators served Zanu PF agenda and interests, undermining the COPAC program.

The sixth interviewee however felt that the red tape associated with UNDP funding processes was ideal given the collapsed financial management systems linked to the Reserve Bank of Zimbabwe and endemic corruption in the country (The Sixth Interviewee, Interview, December 16, 2010). While the two interviewees expressed differing opinions, both agree that donors had a controlling hand on COPAC operations. As was highlighted by the first interviewee, logistical nightmares affected the holding of meetings and facilitated Zanu PF access to the citizens at meeting venues prior to the arrival of the COPAC teams, as such allowing intimidation to take place. The prevalence of violence undermined equal and free contributions by citizens, some key benchmarks for deliberative democracy. The violence and logistical challenges emanating from poor funding arrangements witnessed during the consultative process affected the level of inclusivity in the constitution making process, and if ranked along the eight rungs of participation as posited by Arnstein (1969), it can only be placed in rung 5 of the ladder of participation.

4.2.4.4 The GPA Framework and the Parliamentary Role

The involvement of Members of parliament in COPAC was more dominant than any other sector in Zimbabwe. The MPs occupied influential positions in all the COPAC structures, from thematic committees, outreach teams, steering committee, select committee and the management committee. This is in line with Article 6.1 (a) of the GPA, which stipulated that the Select Committee as well as the chairmanship of the sub-committees thereof shall be comprised of members of parliament. In the 70 outreach teams, MPs occupied leadership positions that led deliberations during consultations, and were therefore positioned to make decisions in relation to the consultative process. The Co-leaders of each outreach team were appointed by political parties and responsible for signing a declaration form used to certify the validity of the meetings based on the conduciveness of the environment.

It was the role of MPs to ensure that the recording of proceedings were being carried out properly, with the three co-leaders responsible for the signing of jointly compiled reports of meeting proceedings and confirming the data collected. In the event the Co-leaders of the outreach teams felt the data was not correct or that the environment was not conducive, they would declare the specific meeting a nullity (The Eighth Interviewee, Interview, December 18 2010).

The first interviewee's view was that the ongoing process has some semblance of legitimacy emanating from the fact that a balanced and representative parliament was in charge of the consultative process (The First Interviewee, Interview December 13, 2010). This was unlike the case in 1999, where the Constitutional Commission relied on a parliament where at least 98% of the membership came from one political party, Zanu PF. He noted that the current hung parliament is more representative than the 2000 Constitutional Commission process and captures views from the political divide and in that way is more inclusive. He however added that the most ideal process must be led by a constitutional assembly, "elected for the purpose as was the case in South Africa" (ibid).

It was the view of the second interviewee that "*the Executive, Parliament and Political parties had a bigger voice"* in the consultative process, as such the process was top-down in approach (The Second Interviewee, Interview, December 14 2010). They observed that some

MPs got themselves involved in advancing partisan positions during the consultative meetings. For instance, some MPs allowed and promoted the use of protracted prayers to articulate partisan constitutional positions, while others, would use tricks to inform party cadres preferred positions during the consultative meetings. A good example is that of Hon. Pishayi Muchauraya an MDC MP for Makoni South in Manicaland Province who was caught using his feet *"writing informative messages to guide discourse during the consultative meetings"*.

Such a practise tended to mould deliberations towards the placation type of deliberation, as citizens are engaged in "guided participatory discussions" as illustrated by the Arnstein's Ladder of Participation. In that vein, participation by parliament, the Executive and the political parties eliminated free participation of citizens in confirmation of Elster's (1998) deliberative setting. Elster (1998) advised against participation of the military, the judiciary and parliament in the constitution making process as they were set to benefit from the outcome of the process.

4.2.4.5 The Self-serving Role of Members of Parliament

Respondents felt that MPs had benefitted unjustifiably from the outreach program. It was their view that some MPs were 'money-driven' and concentrated on hiring out of vehicles and allowances issues rather than on the consultations. One incident relates to Hon Marvellous Khumalo; an MDC-T MP for Zengeza constituency in Chitungwiza province who led a group of outreach team members to demonstrate at the COPAC offices demanding payment of allowances.

The third interviewee observed that MPs were engaged in *"populist speech-making"* to entrench party support rather than consult on constitutional issues, during the outreach consultative process (The Third Interviewee, Interview December 14, 2010). He noted that section 6 of the GPA makes the pretension that the constitution making process was set to be people driven yet only the MPs would be given sufficient leverage, *"lock stock and barrel"*, to engage the citizens. The forth interviewee asserted that key constitutional issues did not get sufficient debate as MPs were not competent to engage in some of the issues.

Whereas the forth interviewee noted that the Executive, political parties and parliament played significant roles in the consultative process, the fifth interviewee observed that *"it was incorrect for parliamentarians and the Executive to lead a review process from which they were set to benefit as the legislature and cabinet respectively"* (The Fourth and Fifth Interviewees, Interview, December 15 & 16, 2010). This undermined the credibility and legitimacy of the process, as Civic Society and other players were only involved in non-decision making participation, what Arnstein (1969) referred to as "participation in participation processes".

4.2.4.6 The Role of the Executive

The policy statement made by President Robert Mugabe that political parties in the Inclusive Government had the final say on the content of the constitution confirmed the dominance of political parties and the Executive in the constitution making process (The Independent, 26 June 2010). This fact was consolidated when Prime Minister Morgan Tsvangirai later described the program as *"a "messy" process that had "failed to pass the test of legitimacy, credibility and people-drivenness"*, as such would fail to facilitate the holding of free and fair elections *(2010 September, 21 Reuters)*. The eighth interviewee confirmed the point when he said that *"the principals revised the structure after the all stakeholders' conference, held at the beginning of the constitution making process and sanctioned the setting up of a Management Committee, comprised of the six negotiators of the GPA, the three Co-chairpersons and the Minister of Parliament and Constitutional Affairs. A steering committee was also established to operate below the management committee*" (The Eighth Interviewee, Interview, December 18, 2010). It was the principals in government's decision to set up the two additional structures and alienate the Speaker of parliament and parliamentary secretariat from policy making and administering the consultative process, even though the MPs continued to carry-out various tasks during the consultative process.

The setting up of a management committee to deal with policy issues served to consolidate the role of the Executive in the running of COPAC business, as the committee assumed responsibility of all policy and strategic decisions, outfoxing the select committee, which became the implementation body. For example, it was the management committee that *"consolidated and truncated the talking points"* using details collected from the work of the

thematic committees (The Eighth Interviewee, Interview, December 18, 2010). The talking points defined the framework of engagement with citizens during the consultative process and to that extent; it defined the nature of data to be collected and the content of the constitution being crafted. The political power of the management committee was also derived from the fact that it was comprised of members of the GPA negotiating teams comprised of secretary generals of the political parties and some senior party members in the Inclusive Government. All the members were cabinet Ministers and are well positioned to make political and executive decisions on behalf of their parties and the government.

The dominant role played by the management committee exposed the role of the Executive in the consultative process. Such a scenario also demonstrated the peripheral role that citizens were made to participate, resulting in elitist decision making. According to Arnstein's (1969) Ladder of Participation, citizens were therefore engaged in tokenism and in *'cosmetic consultative process'*; only meant to placate and deceive them into believing that they are being genuinely consulted. Due to the dominance of the Executive and the political parties, the policy making process could be referred to as having been 'Executo-partocratic' in nature.

4.2.4.7 State Security Structures

The participation of the army and other security agents (securocrats) was evident through the introduction of violent programs such as *'operation Chimumumu'* loosely translated as *'remain silent'*. Zanu PF was alive to the fact *that "whoever wins the constitution making contestation, wins the next election"*, yet its fading fortune was even clearer. (The Seventh Interviewee, Interview, December 18, 2010). In order to win the contestation, the party relied on its default setting, the violent mode.

Zanu PF relied on its *'octopus'* structure constituted of state bureaucracy, the securocrats and party militia, whose only method of mobilisation is violence. (The Seventh Interviewee, Interview, December 18 2010). In the end, citizens chose to skip opportunities to articulate their views, preferring instead to parrot positions as *'instructed'* by party commissars and the securocrats.

In this instance, soldiers deployed under 'operation maguta', an agricultural input scheme designed to promote command agriculture in the communal areas and the resettlement

communities, coerced citizens on behalf of Zanu PF (The Fifth Interviewee, Interview, December, 16, 2010). The soldiers were easily assisted by war veterans', party youth and women welfare officer, deployed by the Ministry of Youth Development, Economic Development and Indigenisation.

Incidences of harassment, intimidation, violence and coaching were widespread in Harare, Midlands, Masvingo, Manicaland, Harare and Mashonaland Central, East and West provinces (ERC Research Report, 2010). The police worsened the situation by allowing the collapse of the rule of law through non-action. Lawlessness and violence led to the death of Chrispen Mandizvidza (32), who was assaulted at a COPAC outreach meeting at Mai Musodzi Hall in Mbare District in Harare province on 22 September 2010. The "harvest of fear" strategy was adopted by the securocrats to take advantage of inherent fear in the communities. The violence that was carried out between March 2008 and June 2008 seemed to have settled in the communities and was easily being taken advantage of to intimidate citizens by Zanu PF structures of violence. Intimidation tactics only served to alienate citizens from participation. In this case, whereas many people attended the consultative meetings, very few were able to express their views. '*Operation Chimumumu'* (remain silent) made sure that citizens remained silent and only those members appointed and coached by party leadership were allowed to speak.

As was posited by Elster (1998), the participation of the military in a program it is set to benefit, such as the crafting of a national constitution, was seen as improper and in that it undermines deliberative democracy. The presence of the military at the meetings and the activities they carried out before the meetings thwarted citizens' participation as well as excluding citizens' views from the process. As such, the process could not capture the views of the minority, culminating in the dominance of the views of the military in the new constitution.

4.2.4.8 The Suppressed, Confused and Confusing Media

Research findings pointed out that the media did not fully play its part before, during and after the consultative process. For instance, the eighth interviewee pointed out that the public media refused to air COPAC adverts (The Eighth Interviewee, Interview, December 18, 2010). In cases where the Zimbabwe Broadcasting Corporation, the sole broadcasting house

in Zimbabwe and the Herald, a public daily newspaper, agreed to carry its adverts, exorbitant fees that COPAC could not afford were charged (ibid). Little publicity was made through both the private and the public media on content issues, with the private choosing instead; to concentrate on the negative aspects associated with logistical challenges experienced right from the first All Stakeholders Conference through to the last set of outreach meetings.

The private media de-campaigned on mala fide basis (The Fifth Interviewee, December 15, 2010). The third interviewee observed that the public media was very strategic in the manner that it chose to report on the consultative process (The third interviewee, Interview, December 14, 2010). When it suited Zanu PF, the public media would exalt the process choosing to condemn it whenever the process appeared to be favouring the pro-democratic movement (ibid). This left citizens a little confused. He also noted that *'Civil Society and the media were on the run'*, due to the continued application of Public Order and Security Act and Access to Information and Public Protection Act, as such the environment was not conducive for media operations. The media was suppressed.

The failure by the media to adequately inform the public with vital information on the constitutional content debate, outreach meeting venues, dates and times affected the extent of consultation as some people were left out due to lack of information. In situations where the media informed the people, changes caused by logistical challenges were not relayed to the public resulting in people missing the meetings. As such, some people failed to contribute their views to the process. There was no proper debate on contentious issues such as land, the death penalty, media and Executive powers. The confused and confusing media left citizens participating in debate on the basis of ignorance and lack of information killing qualitative contributions to the constitutional debate.

The absence of proper knowledge and debate on key issues resulted in participation where participation is a window-dressing exercise, placed in the forth rung in Arnstein's ladder of participation.

4.2.5 Deliberative Platforms and Educational Programs

COPAC used three main methods to gather the views of citizens during the outreach program; namely, meetings, the website and written submissions (The Eighth Interviewee

Interview, December, 18 2010). While educational programs were critical for the advancement of equality in debate, the committee paid no attention to this function. The view expressed by informants was that there was insufficient education activities carried out to ensure that the public is made aware of the tenets of the constitutional making prior and during the outreach program. While the eighth interviewee informed the researcher that outreach team members, the rapporteurs and technicians went through proper training, there was no evidence that ordinary citizens received any form of education to equip them for proper debate (The Eighth Interviewee, Interview, December 18, 2010).

Instead, the role was left to a few Civil Society organisations, namely: IDAZIM, ZICCODD, Crisis Coalition Zimbabwe and the Democratic Mayoral Conference (DemCof) among others. Political parties also found it imperative that they occupy the space and took the task with zest. In most cases, rather than educating members on the real issues on constitutionalism, parties chose to drill their members and other gullible members of the society on party ideological positions (The Forth Interviewee, Interview, December 15, 2010).

However, contrary to information secured through interviews, the Afrobarometer briefing paper on Zimbabwe on "The Evolving Public Mood" based on a survey carried out by the Mass Public Opinion Poll, noted that there was remarkable increase in knowledge from 40 percent in September 2009 to 75 percent the same time in 2010 (Afrobarometer, December, 2010). Another Afrobarometer survey on Attitudes to Political Transitions in Zimbabwe held in October 2010 revealed that the level of knowledge on constitutional reform had increased amongst citizens further to 81 percent in urban areas and 73 percent in rural areas (Afro Barometer, October 2010). The change was attributed to *"COPAC's effort to involve citizens in the constitution-making process and probably also to a heavy-handed campaign against meaningful change in the legal framework, conducted by ZANU-PF cadres, mainly in rural areas"* (Afrobarometer, December 2010).

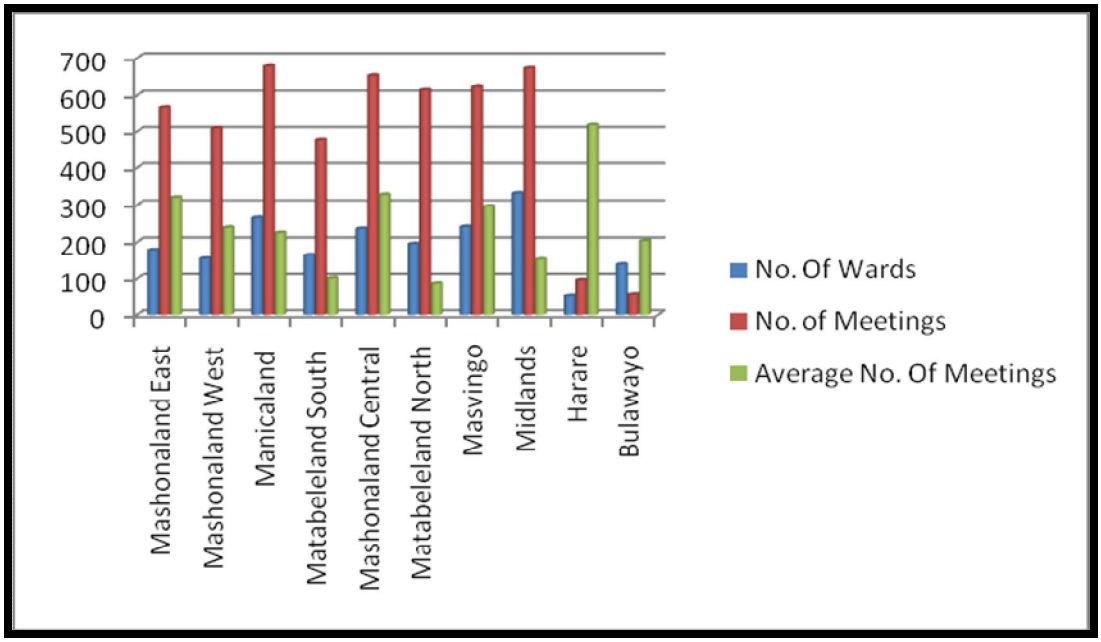
The main sources of information were identified as the radio (36 percent) and television (26 percent), Community meetings (26 percent) and 22 percent from political officials. The heavy involvement of political parties confirms the politicization of the outreach process (Afrobarometer, December, 2009).

This heavy involvement of political parties had the propensity to exterminate the thriving of deliberative participatory debate at the consultative meetings.

4.2.6 The Outreach Meetings

In order to establish the extent to which citizens were involved, and the quality involvement, it is important to analyse COPAC outreach meetings held across the country. Information obtained from COPAC shows that the total number of meetings carried out in the country's 1958 wards stood at 4953 while a total of 1 118 770 attended the meetings. Figure 11 shows the number of wards, meetings and the average number of meetings per ward.

Figure 11 Country Distribution of Wards and Meetings per Province



The consultative program mainly relied on ward meetings, with at least three meetings being held in rural and farming areas, while urban areas had an average of two meetings held per ward (The Eighth Interviewee, Interview, December 18, 2010). This had the effect of reducing the total number of participants in urban areas as fewer meetings were held. There were 70 outreach teams that were assisted by 70 technicians and 210 rapporteurs assigned to carry out the consultative meetings. Each political party sponsored technicians and rapporteurs whom they trusted to record proceedings correctly.

Figure 11 also shows that the Midlands province had the highest number of wards at 332, followed by Manicaland province at 265 while Harare had the second lowest number of

wards at 53 after Bulawayo which has 29. It would therefore follow that the highest number of meetings would be held in Midlands and Manicaland provinces while the lowest would be in Bulawayo province. The highest number of meetings were held in Manicaland province with 677, followed by Mashonaland Central province with 652, and the lowest being Bulawayo at 57. This is reflective of the number of wards per province, as the meetings were being carried at ward level, with rural areas getting a higher number of three compared to urban areas that got two each, on average.

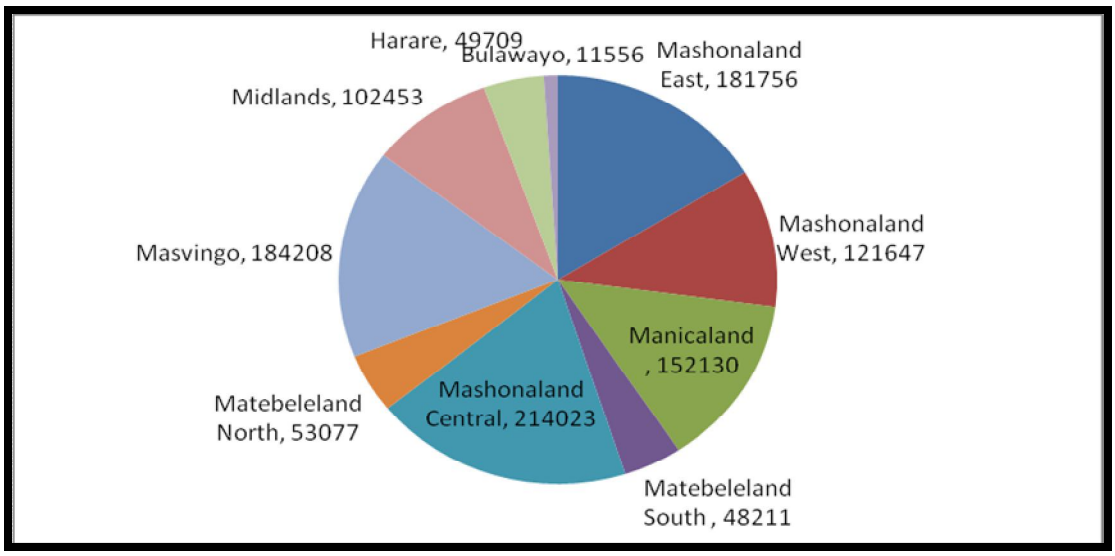
The average number of people attending a consultative meeting was highest in Harare province, with 518 citizens per meeting, followed by Mashonaland Central province, with 328 citizens at each meeting. While the high turnout experienced in Harare may be reflective of a strong MDC influence on mass mobilization for consultative meetings in urban areas, the corresponding response in Mashonaland Central province would be confirmation of prevalence of coaching of citizens, violence and the application of intimidation tactics used to coerce citizens to attend the meetings.

The lowest turnout was witnessed in Matabeleland North province where, on average, 86 people attended each, followed by Matabeleland South province at 101 citizens per meeting. Mashonaland Central province presents a very interesting case in that while its population is lower than Manicaland, Mashonaland East, Mashonaland West, Masvingo, Midlands and Harare, it has more wards and secured greater attendance than these provinces. This can be explained by the fact that the province is a Zanu PF stronghold, hence the increase in the number of wards and use of coercion by party zealots to enforce attendance at meetings. The evidence also point to the fact that political parties were driving mobilisation programs and not ordinary citizens as the case should be.

The quality of deliberation was reliant on the environment created for discussion at the meetings. Violence and intimidation curtailed the capturing of citizens' views at the meetings, negatively affecting the quality of deliberations resulting in poor consultation. Similarly, high attendances at the meetings also curtailed debate. Not all the participants were freely articulated their views. This was witnessed by the researcher at the 10 meetings visited, one in each of the 10 different provinces of the country. The few that were appointed by political parties to speak did so "on behalf of" the rest of the participants. Figure 12 below

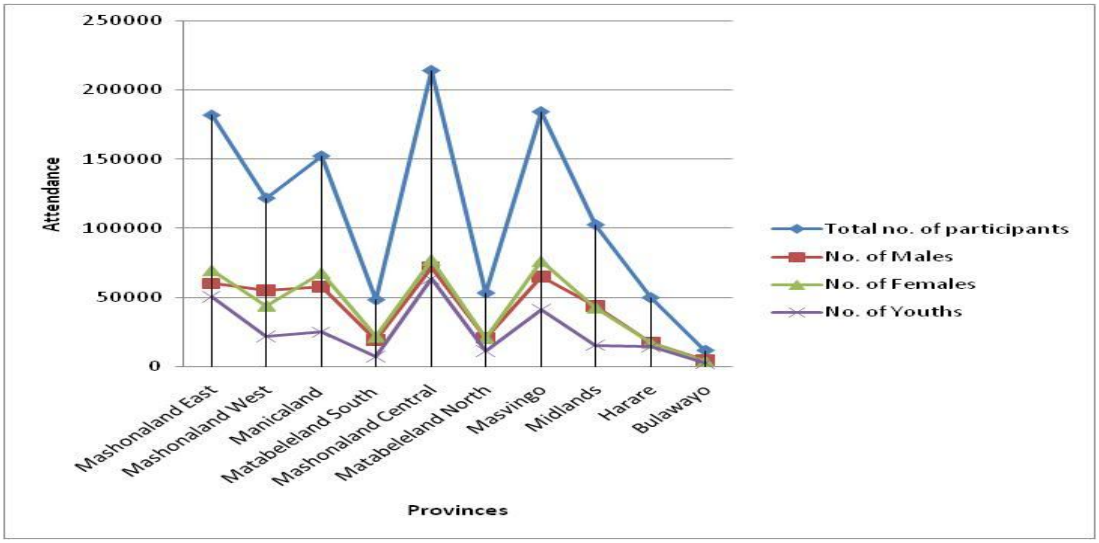
shows the number of people who attended but not necessarily speak at the meetings held in the provinces.

Figure 12 No. of people Consulted per province



In total 1,118,770 people attended meetings. Mashonaland Central had the highest attendance, with 214 023 citizens attending the meetings. The lowest attendance was secured in Bulawayo, with 11556, followed by Harare with 49 709, combined to represent 3% citizens attending. There is a direct relationship between the number of wards per province and the number of meetings held, since three meetings were held in every rural based ward while two meetings were done in urban based wards. In all the provinces, more women than men and the youth attended the meetings separately. Figure 13 shows attendances to meetings by age, gender and total participants per province. The young category refers to anyone, whether male or female below the age of 35. These were also excluded from the male and female categories.

Figure 13 Attendances by Age and Gender



From the information available, it is evident that participation by women was higher than that of the men and youth save that for Mashonaland West, Midlands, Harare and Bulawayo Provinces. This may be explained by demographic circumstances in the country where women are predominantly more present in rural areas than they are in urban areas. It is men who, in the history of the country, dwelled in towns and cities, working, while women looked after children in the communal areas. At the same time, women are easier to mobilise than men, while the use of violence and intimidation will result in greater compliance among women resulting in greater participation.

The youth had the lowest level of participation in all provinces. This probably indicates that there was poor mobilisation of citizens to participate in the program. Alternatively it can be explained by the fact that the youth are cynical about political developments having been used without immediate tangible benefits accruing to them in the recent past. A research by the Election Resource Centre (ERC), a research and advocacy organisation focussing on elections shows that youth are generally disinterested in political processes due to failure by the ruling elite to address their concerns. In addition, most young people left the country during the period 2005-2009 when hardships began to sky rocket.

Evidence shows that more women participated than men, while the youth had the lowest levels of participation. On age and gender basis, participation in the constitution making process was not even, and indeed favoured the women.

Be that as it may, it is evident that attendance levels had been too high for deliberative discussions and consultations to take place. With a minimum average attendance per province of 86 people, achieved in Matabeleland North and the highest average attendance being 518 achieved in Harare, the meetings were so big that real deliberation could not take place. The MPs involved in the deliberation ended up engaged in speech making rather than discussing. In such an event, consultation was poor representing tokenism if placed against Arnstein's ladder of participation.

4.2.7 The Website and the Written Submissions

In seeking to address the absence of clear platforms of engagement with the Diaspora that is scattered all over the world, COPAC established a website and an arrangement that allowed written submissions to be made to enable their involvement (The eighth Interviewee, Interview, December 18, 2010). A glance at the website reveals that GPA provisions in article 6, the constitutional issues talking points, key constitutional issues, the COPAC organogram, funding arrangements, updates and news on processes, program adverts, most popular questions and a provision for submission of views was provided for.

The eighth interviewee informed the researcher that some valuable contributions were made through the website (The eighth Interviewee, Interview, December 18, 2010). However, such contributions were not secured through a deliberative process. The website contributions, just like written submissions are not secured through an interactive participatory process, as such its use defeat deliberative democracy.

4.3 Conclusion

Data secured through semi-structured interviews was presented and sifted for content analysis. Documentary analysis was carried out on material secured from COPAC, newspaper articles and other Policy Institutions. The analysis was presented and used for drawing of conclusions and recommendations in the next chapter.

CHAPTER 5

CONCLUSIONS AND RECOMMENDATIONS

5.1 Introduction

This chapter presents a summary of the study, conclusions and the main recommendations flowing from the analysis of data secured through semi-structured interviews. The summary, conclusions and recommendations are focused on explaining the nature of public participation in the constitution making process, as well as answer the research questions raised in Chapter one. The findings show that democratic deliberation was not prevalent during the consultative meetings.

5.2 Summary of Findings

This study was aimed at establishing the extent to which participatory democratic deliberative processes are being used in writing a new constitution in Zimbabwe. The study applied the 'participation ladder' as articulated by Arnstein (1969) and Patten's guidelines to democratic deliberation to assess the quality of citizen engagement on policy development. Based on eight semi-structured interviews, the research sought to answer the broad research question "What processes are being used to secure deliberative democratic participation in the constitution design process in Zimbabwe?"

The research then used Arnstein's Ladder of Participation, Elster's (1998) deliberative setting and Patten's Guidelines to Democratic Deliberations to analyse the data, sifting through the material secured through the interviewee for content analysis and through documentary analysis.

5.3 Study Conclusions

This sub-section presents generalised positions, made in relation to the research questions and the findings of the study. Direct responses are made to the research questions.

5.3.1 How has the 'partocratic' policy model affected participatory deliberative democracy in the constitution design process in Zimbabwe

The perpetuation of the partocratic policy making process as witnessed in the constitution revision exercise had the effect of eliminating non-political citizens' involvement in policy

development. As a result, only the views of the citizens aligned to the three political parties dominated the positions captured during the consultative process. The coaching of party members and the appointment of party spokespersons who parroted party positions facilitated the evasion deliberative democracy in the consultative process. This was made possible by ensuring that participants at the COPAC consultative meetings were unable to articulate their views. In such a situation, the participation of nearly 1,119 million citizens in the outreach meetings did not aid the quality of deliberation as *"Operation Chimumumu"*, violence, harassment and intimidation, media blackout, logistical nightmares and inherent fear disenfranchised many citizens from democratic deliberative participation.

The partocratic policy making process lowered the extent of public participation, as the process led to tokenism and "window-dressing" consultative processes. As was established using Arnstein's (1969) ladder of participation, deliberative democracy was mainly below the placation rung and as such the process could not pass the test of legitimacy.

5.3.2 What policy formulation processes were employed in the constitution making process?

Evidence gathered indicates that not only has the constitution making process been partocratic or political party driven, but that the Executive defined the framework and the processes for the consultative process. As demonstrated in Figure 9, senior political party leaders from political parties in the Inclusive Government who are in cabinet and some parliamentarians occupying senior party positions constituted the COPAC Management Committee responsible for policy development. At the same time, the steering committee comprised of individuals from political parties and the Civic Society was in charge of the less important role of policy implementation.

The management committee developed the institutional framework for policy development, structured and truncated the talking points, defined the data collection process, data uploading and developed the thematic areas and issues for the content of the constitution. This was in perpetuation of the work done by senior party leaders during the GPA negotiations, where the constitutional reform was identified as a policy problem and the framework of policy initiation, formulation and implementation was defined.

It can therefore be concluded that political parties in the Inclusive Government dominated the constitution making process in such a way that policy problem identification, policy initiation, policy formulation and implementation were mainly determined by political parties at the exclusion or with the minimal participation of ordinary citizens.

5.3.3 How have the policy formulation processes affected genuine democratic participation in the constitution reform process in Zimbabwe?

The COPAC structure set up to administer and manage the constitutional making process did not reflect the autonomy spelt out in article 6 of the GPA which set out a parliamentary led process. Instead, it reflected the heavy presence of the Executive and that of political parties in decision making positions. The presence of the Executive in the COPAC management committee, the constitutional review policy making body, undermined the legitimacy of the process as it allowed the participation of the Executive, itself set to benefit from the outcome of the process. This made the constitution making process an "Executo-partocratic driven" rather than "people-driven" process.

The superiority of political parties in the constitution making process validates the preponderance of "partocratic" policy making approach and the extent of political power contestation associated with the GPA and the Inclusive Government in Zimbabwe. Rather than relying on citizens for the consultative process, the policy formulation process adopted, opted to rely on political parties. At the same time, the process was also dominated by the Executive and to some lesser extent by parliament. Ordinary citizens were excluded from the process through various methods, including violence, intimidation, '*operation chimumumu'* and the appointment of party spokespersons.

In particular, the appointment of party spokespersons and the couching of citizens, giving them details of what to say, ensured that even if meetings were attended by an average of at 86 people, most of these were not in a position to contribute at the meetings. In any case, the meetings were too big to allow genuine deliberation to take place even if couching and appointment of spokespersons had not taken place.

5.3.4 What options are available for increasing participatory deliberative democracy in the policy making process in Zimbabwe?

In answering this question, it is important to focus on the remaining COPAC processes and the public policy formulation processes in Zimbabwe.

5.3.4.1 The Remaining COPAC processes

Critical processes yet to be carried out must be transferred to the domain of deliberations and refrain from negotiations to nourish a semblance of legitimacy still inherent in the process. The collation of data, data uploading and the drafting of the constitution should be carried out by non-partisan people, who should predominantly be experts so as to eradicate political party influence on content of the constitution. Negotiations are elitist and eliminate opportunities for citizen involvement, and in the current political context, tend to be "Executo-partocratic". Public participation and deliberations should be at the epicentre of the remaining stages of constitutional review. The people's views that were captured albeit through a defective process must be respected and protected.

In addition, it would be critical to establish mechanisms to monitor the government actions and influence on the constitution making process in view of the fact that the Executive was set to benefit from the outcome of the process. In view of the fact that political parties in the GNU continued to contest for power within the context of the constitution making process, it was important to develop a clear framework for the consultative process in order to prevent further narrowing the legitimacy of the constitution making process.

The effect of political leadership pronouncements around the constitutional review process was negative. These pronouncements should be minimised as they undermine the independence, autonomy, credibility and legitimacy of the constitution making process. At the same time, COPAC should take full charge of the process and be responsible for policy formulation and pronouncements as is envisaged in article 6 of the GPA. Similarly, the steering committee, whose membership included some individuals seconded by Civil Society and was set up to oversee operations at COPAC must be re-activated and allowed to take a leading role. The structure for delivery should demonstrate prominence of citizen role in the process.

The role of parliament as the final authority on the constitution making process should be minimised. Parliament is set to benefit from this process; as such it must not be allowed to give the last nod to the process.

Whereas a referendum is not a deliberative but an aggregative process, the GPA proposed process should facilitate making of choices on individual issues and parliament must not be allowed veto powers on the choices made at the referendum. In other words, parliament would review the draft constitution after the first all-stakeholder conference and before the referendum.

In order to secure a genuine democratic deliberative constitution making process that places citizens at the epicentre of policy making, the role of the media in educating members and informing the public should be enhanced. Media should promote equality and inclusivity in participation, through the promotion of reason-giving and not negotiations. Repressive media laws should be repealed.

The security forces played a negative role in the constitution making process. Its involvement has alienated citizens from participation. It would be ideal that all future process be led by civilians to allow the promotion of free and equal participation. The international community and the pro-democratic contingent in Zimbabwe need to focus on civil-military relations so that the role of the military becomes non-partisan and progressive in future processes. Such an approach will help address environmental operational issues whose current challenges have been heavily linked to military personnel activities.

Evidence gathered showed that the constitution making process linked to the democratic 'regime change' agenda and to nationalists 'power retention' egos. In order to eliminate these egos, the adoption of the new constitution has to be delayed, by say five years, to remove selfish interests from the process. Failure to claim legitimacy of the process will lead to a "NO" vote in the referendum. There are chances that a "NO" vote in the referendum would return the country to political instability that the transitional arrangement sought to eradicate. In that event, rather than facilitate regime change; presumably sought for by some parties in the Inclusive Government, the constitution making process could plunge Zimbabwe into a

political crises analogous to that of the period prior to SADC involvement; having reversed all the gains witnessed to date.

5.3.4.2 Options for Increasing Participation in Policy Making in Zimbabwe

In order to inculcate genuine deliberative democracy in policy making, it is vital that the role of political parties in policy formulation processes be limited. The state must rely on societal networks, policy networks and community networks for policy development.

In addition, Civil Society should be allowed greater say in identifying policy issues and contributing to policy content. The role of the ordinary man in the street must be enhanced so that policies are able to address the aspirations of the ordinary citizens. Partocratic decision making processes result in a polarised society as citizens' views are treated and weighed in a partisan manner and an exclusionary policy process is perpetuated.

If the views of the ordinary citizens were to be given prominence, the impact of power contestation by parties in the Inclusive Government would be subdued. To that extent that the views of ordinary citizens would take precedence over those of political parties in government, policy formulation may secure a democratic deliberative mode that will enhance the quality of public policies.

5.3.5 What processes are being used to secure deliberative democratic participation in the constitution design process in Zimbabwe?

Given that it is the 'Executo-partocratic' policy formulation process dominated the constitution making process, the role of ordinary citizens and deliberative democracy was diminished.

Deliberative democracy could not flourish as citizens were not free and equal to engage in reason giving, allowing better arguments to stand. Instead the Executive and the political parties led and drove the process to achieve selfish ends. It can therefore be concluded that while meetings were held, the environment at the meetings was not conducive for genuine deliberation due to extensive power contestation that resulted in violence and intimidation and as such, the process could not pass the test of legitimacy. In the end, rather than counteract the effect of partocratic policy making approach advanced by Zanu PF, other

political parties in the Inclusive government have tended to compete for control, deepening and solidifying political parties' hold of policy making in Zimbabwe.

It can be concluded that if the contestation for power and that for control of the policy process by the parties in the Inclusive Government were to persist beyond the constitution making process, the transitional arrangement would fail to achieve the intended objective of securing a free and fair electoral outcome. In the outlook, the country could slide to political instability associated with a polarised society infested with violence.

Selected References

Afrobarometer. (2010 December) Zimbabwe: The Evolving Public Mood.

Afrobarometer. (2010 October). Attitudes to political Transition in Zimbabwe. AB Round 4, 5 Survey Findings.

Alvarez S 1993. Deepening Democracy: Popular Movement Networks, Constitutional Reform.

Arnstein S R 1969. A Ladder of Citizen Participation, JAIP, Vol. 35, No. 4, July 1969, pp. 216-224.

Austin R 2009. Writing Autobiographies of Nations: a comparative analysis of constitutional reform process.

Babbie E 1995. The practice of social research, 7th edition. Bowker, J. M. Belmont, CA: Wadsworth Publishing Company.

Banya N (2010 September 21). Zimbabwe Constitutional Reform process not credible. Reuters [Electronic Version].

Bassey M 1999. Case study research in educational settings. Buckingham, Open University Press. Beetham D 1991. The legitimation of power. Basingstoke: MacmillanBelknap Press of Harvard University Press.

Benhabib S 1996. Toward a deliberative model of democratic legitimacy. Pp. 67-94 in Democracy and difference, edited by Seyla Benhabib. Princeton: Princeton University Press.

Bessette J 1980. Deliberative Democracy: The Majority Principle in ... Uhr, J. (1998) Deliberative Democracy in Australia.

Bessette J 1994. The Mild Voice of Reason: Deliberative Democracy & American National Government Chicago: University of Chicago Press

Bohman J 1996. Public Deliberation: Pluralism, Complexity, and Democracy, MIT Press

Bohman J 1998. The Globalization of the Public Sphere, Philosophy and Social Criticism 24:199-216, MIT Press.

Bohman J and Rehg W 1997. Deliberative Democracy: Essays on Reason and Politics, eds. Cambridge: The MIT Press

Booysen S 2006b. Consolidation of control in the Centre: Trends in Public Policy making in South Africa.' Journal of Public Administration, Vol. 41. (4). Boundaries of the Political. Princeton, NJ: Princeton University Press.

Boyatzis R E 1998. Building Bridges in Content Analysis: Quantitative and Qualitative Trading. pp 31

Callahan K 1987. Elements of Effective Governance: Measurement, Accountability and participation, CRC Press, USA. Cambridge UP.

Chapungu L 2002. Governance in Zimbabwe, Department of Rural and Urban Planning, University of Zimbabwe.

Cohen J 1986. An Epistemic Conception of Democracy. Ethics 97:26–38.

Cohen J 1989. Deliberation and democratic legitimacy Pp. 143-155 in Contemporary political philosophy: an anthology, edited by Robert E Goodin and Philip Pettit. Oxford: Blackwell.

Cohen J 1996. Procedure and Substance in Deliberative Democracy: In Democracy and Difference. Ed. Seyla Benhabib: 95-119.

Creswell J W 2002. Research Design: Qualitative, Quantitative, and Mixed Methods Approaches, Trade paperback Sage Publications.

Creswell, J W 1998. Qualitative inquiry and research design: Choosing among five traditions. Thousand Oaks, CA: Sage Publications Creswell, J W 2003. Research Design: Qualitative, Quantitative, and Mixed Methods Approaches, Thousand Oaks, CA: Sage publications.

Crook R C 1987. Legitimacy, authority and the transfer of power in Ghana. Political Studies 35:552-72. John S. Dryzek, J 2000a. Deliberative Democracy and Beyond: Liberals, Critics, Contestations Oxford: Oxford University Press.

Dryzek J 2001. Legitimacy and Economy in Deliberative Democracy, Political Theory 29:651-669.

Dryzek J S 1990. Discursive Democracy: Politics, Policy, and Political Science. Cambridge: Cambridge University Press.

Dryzek J S 2000. Deliberative Democracy and Beyond: Liberals, Critics, Contestations, Oxford.

Ebrahim H 1995. The Process of drafting South Africa's new constitution. Paper presented at the international round table on democratic constitutional development.

Elster J 1986. The Market and the Forum: from J. Elster and A. Aanund, eds., The Foundations of Social Choice Theory, Cambridge: Cambridge University Press.

Elster J 1989. Social Norms and Economic Theory, Journal of Economic Perspectives, American Economic Association, vol. 3(4), pages 99-117

Elster J 1995. Transition, constitution-making and separation in Czechoslovakia, European Journal of Sociology/Archives Europennes de Sociologie 36 (1):105-134

Elster J 1996. Rationality and the Emotions," Economic Journal, Royal Economic Society, vol. 106(438):1386-97

Elster J 1997.The Market and the Forum: Three Varieties of Political Theory, in Contemporary Political Ethics 101:64–88.

Elster J 1998. Emotions and Economic Theory, Journal of Economic Literature, American Economic Association, vol. 36(1), pages 47-74

ERC Research Report, 2010.

Estlund D 1997. Beyond fairness of deliberation: the epistemic dimension of democratic authority, in J. Bohman and W. Rehg (eds) Deliberative Democracy: Essays on Reason and Politics. Cambridge MA: MIT Press, pp. 173–204.

Fearon, J D. 1998. "Deliberation as Discussion". In Deliberative Democracy, ed. Jon

Fishkin J and Laslett P 2003. Debating Deliberative Democracy (PPAS - Philosophy, Politics & Society (Paperback - 9 Jan 2003)

Fung A and Wright E 2001. Deepening Democracy: Institutional Innovation in Empowered Participatory Governance (eds.), Verso Books, and London.

Fung A and Wright E O (eds) 2002. Deepening Democracy: Institutional Innovations in Empowered Participatory Governance, Verso Books, and London.

Fung A and Wright E O 2003. Thinking about Empowered Participatory Governance. In Fung, Archon and Erick Olin Wright (Eds). Deepening Democracy: Institutional Innovations in empowered participatory governance. Verso Books, London.

Gambetta D 1998. Claro!: An Essay on Discursive Machismo. In Deliberative Democracy, ed. Jon Elster. Cambridge: Cambridge University Press.

George A L and Bennett A 2005. Case studies and theory development in the social sciences, John F Kennedy School of government, Harvard University, Cambridge Massachusetts.

Ghandi M K 1968a. "Swadeshi" in Shriman Narayan (ed) Selected Works of Mahatima Ghadhi, Volume 4 Ahmedabad: Navajivan Publishing, pp 256-60.

Ghandi M K 1968b. "Non Cooperation" Selected Works, Vol. 5, pp 209-16

Gillham B 2000. Case Study Research Methods. London: Bill Gillham

Goodin R (2000) 'Democratic deliberation within', Philosophy and Public Affairs, 29, 81–109.Government of Zimbabwe, Global Political Agreement signed on 15th September 2008. Government Printers.

Grafstein R 1981. The failure of Weber's conception of legitimacy: its causes and implications.

Graftstein R 1992. Institutional Realism: Social And Political Constraints On Rational Economic Actors. Cambridge: Yale University Press.

Guba E G and Lincoln Y S 2005. Paradigmatic controversies, contradictions, and emerging influencies. In N.K Denzin Y. S Lincoln (Eds.), The Sage Handbook Of Qualitative Research (3rd ed. Thousand Oaks, CA: Sage Publications.

Gutmann A and Thompson D 1990. Moral Conflict and Political Consensus.

Gutmann A and Thompson D 1996. Democracy and disagreement. Cambridge, Massachusetts: Belknap Press of Harvard University Press.

Gutmann A and Thompson D 2004. Why deliberative democracy, Princeton University Press

Habermas J 1975. The legitimation crisis of late capitalism. Cambridge, MA: Beacon Press.

Habermas J1996. Between facts and norms: Contributions to a discourse theory of law and democracy. Cambridge: Polity Press.

Hendriks C 2002. The ambiguous role of Civil Society in deliberative democracy Social and Political Theory Program: Research School of Social Sciences Australian National University Canberra.

Herald Reporters (2010, June 23), Indigenisation Policy amended. The Herald, [Electronic version].

Herbers I 2007. Democratic Deepening in the Third Wave Democracies: Experiments with Participation in Mexico City, Leiden University.

Hobbes T 1640. The Elements of Law Natural and Politics

Holloway E L 1997. Systematic Analysis of Supervision for Handbook on Psychotherapy Supervision (pp. 249-276) C. Edward Watkins, Jr. New York

Kagoro B 2004. Zimbabwe Injustice and Political Reconciliation,. Edited by Brian Raftopoulos and Tyrone Savage

King L A 2003. Deliberation, Legitimacy and. Multilevel Democracy, 16 Governance, pp. 23-50. 39

Lather P 1991. Getting Smart Feminist Research & Pedagogy within the postmoderm, New York, Routledge.

MacDonald B and Walker R 1975. Case study and the social philosophy of educational research, Cambridge Journal of Education, vol. 5, no. 1.

Magaisa T (2005, September 02). Constitution without Constitutionalism: Negating Constitutionalism in Zimbabwe, (Kubatana.net). The NGO network alliance project - an online community for Zimbabwean activists

Mandaza I. 1986. Introduction: The Political Economy of Transition.

Mansbridge J 1999. Everyday talk in the deliberative system. Pp. 211-39 in Deliberative

March J G & Olsen J P 1998. The Institutional Dynamics of International Political Orders, 52:4 International Organization 943 Jordan, Government and Pressure Groups in Britain, Clarendon Press, Oxford

Marti J T 2004, Antogobierno deliberative; Uno defensa de la democracia deliberative participartiva doctorial dissertation Pempeu Fabra, University of Bercelona, unpublished Manuscript.

Mbaya S 2000. Land Policy: It's Importance and Emerging Lessons.. From Southern Africa.

Moyo J (2010 November 20). MDC-T Creating Chaos for Survival. The Herald Zimpapers [Electronic Version].

Moyo J N 1992. The Politics of Administration: Understanding Bureaucracy in Africa, Harare, SAPES Books.

Mutasa T 2007. Foreword to Constitutional Review and Reform – And the Adherence to Democratic Principles in Constitutions in Southern African Countries. Muzondidya J 2009. From Buoyance to Crisis, 1980-1997, in Becoming Zimbabwe edited by Raftopous and Mlambo, Weaver Press.

National Constitutional Assembly (NCA) 1999. Task Force Report, June– December 1999. Harare, Zimbabwe.

National Constitutional Assembly (NCA). 1997–2001. Quarterly and Annual Reports. Harare, Zimbabwe.

Neuman W L 2006. Social Research Methods: Quantitative and Qualitative Approaches (6th edition), Allyn & Bacon.

Nino C S 1996. The Constitution of Deliberative Democracy, Yale U.P. A concise and complete theory of Deliberative Democracy

Olivier L 2007. Constitutional Review and Reform – And the Adherence to Democratic Principles in Constitutions in Southern African Countries. Open Society Initiative of Southern Africa.

Olsen J P 1998. The Institutional Dynamics of International Political Orders, 52:4 International Organization 943

Orren K and Skowronek S 1994. Beyond the Iconography of Order: Notes for a `New Institutionalism.' The Dynamics of American Politics: Approaches and Interpretations. Lawrence C. Dodd And Calvin Jillson, Eds. Boulder, Co: Westview Press

Parkinson J 2001. Legitimacy and Deliberative Democracy Social and Political Theory Research School of Social Sciences Australian National University Canberra, ACT 0200 Australia

Patten S 2001. Democratizing the institutions of policy-making: Democratic consultation and participatory administration. Studies Philosophy: An Anthology, ed. Robert E. Goodin and Phillip Pettit (Oxford: Blackwell, 1986), 128-42

Patton J 2002. Qualitative Research and Evaluation Methods.

Peshkin M A 1998. Frontiers of Engineering, National Academy of Engineering, NAE Press.

Poggi G 1978. The development of the modern state. London: Hutchinson.

Raftopous B 2009. The Crisis in Zimbabwe, 1998-2008, in Becoming Zimbabwe edited by Raftopous and Mlambo, Weaver Press.

Rawls J 1996. Political liberalism. New York: Columbia University Press.

Rawls J 1997. The idea of public reason: postscript. In J. Bohman and W. Rehg (eds), Deliberative Democracy: Essays on Politics and Reason. Cambridge, MA: MIT Press. 131–141.

Schimitter P C 1995. The Consolidation of Political Democracies, in Geoffrey Pridham (ed.), Transitions to Democracy (Aldershot: Dartmouth, 1995), 535-570

Schlosberg D 1995. Communicative action in practice: intersubjectivity and new social movements. Political Studies 43:291-311.

Schomberg R V and Baynes K 2002. Discourse and Democracy: eds

Schumpeter J A 1987. Capitalism, Socialism and Democracy: 6th ed. London: Unwin

Sen A 1997. Development and Thinking at the Beginning of the 21st Century, STICERD - Development Economics Papers 02

Sithole M 1978. Zimbabwe : Struggles Within the Struggle. (Salisbury: Rujeko).

Skjelten S 2006. A people Constitution, Public participation in the South African Constitution-making process.

Spiller P T and Tommasi E S 2003. Political Institutions, Policymaking Processes, and Policy Outcomes, An Intertemporal Transactions Framework

Staff Reporter (2010 September 21). Men draws gun at Outreach Meeting. The Standard [Electronic Version].

Stake R 1995. The art of case study research. Thousand Oaks, CA: Sage Publications.

Stivers C 1990. The public agency as the polis: active citizenship in the democratic state, Administration and Society.

Stokes S 1998. Pathologies of Deliberation, in Elster, Deliberative Democracy. Strategic/Deliberative Dichotomy in Recent Constitutional Jurisprudence,

Thoenig J C 2002. Institutional theories and public institutions: traditions and appropriateness‘ In Peteres B.G & Pierre, J (eds) The Handbook of Public Administration, London SAGE Publications, pp. 127-137’Journal of Politics 43:456-72.

Uhr J 1998. Deliberative democracy in Australia: the changing place of parliament. Cambridge: Cambridge University Press

United Democratic Front (UDF) 1986. Building People's Power Isizwe, 1(2): 2-14.

United Nations Development Program, 2008. Comprehensive Economic Recovery in Zimbabwe: A discussion Document

Weitzer R 1990. Transforming Settler States: Communal Conflict and Internal Security in Northern Ireland and Zimbabwe. Berkeley: University of California Press

Yin R K 2003. Case study research: Design and methods (3rd ed.). Thousand Oaks, CA: Sage.

Young I M 1996. Activist Challenges to Deliberative Democracy: 670-90.

Young I M 1996. Communication and the Other: Beyond Deliberative

Zimbabwe Cabinet, 2008. Guidelines on the Roles and Responsibilities of Head of Ministries

Zwizwai B Kambudzi A Mauza B 2004.Zimbabwe: Economic Policy-Making and Implementation: A Study of Strategic Trade and Selective Industrial Policies.